

Report to the Planning and Zoning Commission

Prepared by the Maricopa County Planning and Development Department

Case: S2005065

Gold Mountain

Meeting Date:

October 5, 2006 (continued from September 21, 2006)

Agenda Item:

7

Supervisor District:

2

[New information indicated with an asterisk*]

Applicant:

Beus Gilbert, PLLC

Owner:

Gold Mountain, LLC

Request:

Preliminary Plat the Rural-190 zoning district, with road waivers; 1) to allow a 3-mile long cul-de-sac serving 61 lots where a length of 1,500' serving 15 lots is the maximum allowed; 2) to waive the section line and mid-section line street grid; and 3) to allow a 24' wide private street tract where 40' is the minimum width allowed

Proposed Use:

61-lot, 6-tract single-family rural subdivision

Site Location:

The northernmost terminus of Fleming Springs Rd. (in the Cave Creek area)

Site Size:

Approx. 459 gross acres

Proposed Density:

0.13 d.u./ac.

County Island Status:

Class 1a

Summary of Conformance with Adopted Plans:

County Plan:

The Comprehensive Plan designates this site as being within the Rural Development Area, which calls for rural land uses with a maximum density of 0-1 d.u./ac. The proposed subdivision is consistent with the Comprehensive Plan.

City/Town Plan:

N/A

Support/Opposition:

None known

Recommendation:

Deny

Description of Proposal:

1. * The subject request was first heard by the Commission on July 27, 2006. At that time, several outstanding issues remained. After lengthy discussion, the Commission voted to continue the case to a date-certain of September 21, 2006 to allow the applicant time to meet with staff in an effort to resolve these outstanding items.
2. * On August 10, 2006, the applicant met with staff and was successful in resolving some items, but was not successful in resolving all items. It was generally agreed that the applicant would provide an exhibit that would serve as a hillside disturbance study and would revise their Preliminary Plat to accommodate the agreed upon items. In addition, staff would consider certain modifications to the list of recommended stipulations. A follow-up meeting between the applicant and MCESD occurred on August 23, 2006 to discuss individual on-site septic systems and the level of documentation needed for MCESD to render an opinion on the viability of this proposal. A detailed summary of these meetings is contained elsewhere in this report.
3. * As the cut-off for the September 21st P&Z date approached, both staff and the applicant were in agreement that more time was needed to revise the necessary documents prior to re-hearing this case. Thus, staff requested the case be continued again to a date-certain of October 5, 2006; however, as of the writing of this report, staff has not received the requisite revisions, thus cannot be certain that the agreed upon items have been implemented in the Preliminary Plat and related documents. While staff fundamentally opposes this project, should the Commission wish to move forward, staff recommends the case be continued indefinitely until such time as the appropriate documents are submitted and reviewed. It is staff's position that if the Commission chooses to approve this Preliminary Plat, said Preliminary Plat should be technically sound, as that is the point of the Preliminary Plat process. To allow this Preliminary Plat to be approved in its current condition by deferring these outstanding issues to essentially the Final Plat stage circumvents this process.
4. The subject request is for a Preliminary Plat in the Rural-190 zoning district and involves the platting of 61 rural lots ranging in size from 199,368 sq. ft. to 468,783 sq. ft, with an average area of 306,469 sq. ft. The applicant proposes six (6) tracts intended to accommodate the interior street system, existing mine sites, and open space. The applicant also requests a series of road waivers affecting the length of a cul-de-sac and the number of lots served, the waiver of the section line and mid-section line street grid, and the width of a private street tract.

5. The first waiver involves a request to allow a three (3) mile long cul-de-sac serving 61 lots where 1,500' serving 15 lots is the maximum allowed. The applicant proposes to improve an existing road that enters the site at the western boundary. There are a few dirt roads that access the site elsewhere and have the potential to accommodate secondary emergency access; however, the applicant appears to not have the legal right to use these roads. In addition, the condition of these dirt roads is such that they would not meet roadway standards, without extensive improvements. The area is also subject to severe topography limiting the ability to effectively manage ingress and egress to the site in the event of an emergency. Staff does not support this waiver request.
6. The second waiver is a request to waive the section line and mid-section line street grid. Due to the severe topography, staff does not object to this particular request as it would not be feasible for the County to establish or maintain the arterial grid pattern found in the flatter areas of the County.
7. * The third waiver was originally to allow a 27' wide private street tract where 40' is the minimum width allowed. (This was not listed in the project narrative, which was due to staff oversight.) Generally, staff supports waivers to allow reduced private street tract widths down to 40'. Having stated this, due to the topography of the site, the applicant originally proposed a 27' tract width; however, that width complicates Hillside reviews as will be discussed later in this report. Thus, while staff does not support the proposed subdivision, the applicant has agreed to place the roadway within a 24' wide private street tract. Having stated this, the Preliminary Plat has not been revised to reflect the agreed upon tract width or the revised street cross-section.
8. * The subdivision as currently proposed will include a total of six (6) tracts, with two (2) of these tracts accommodating the aforementioned road. One (1) tract will accommodate a water tank near the site's highest elevation. The remaining three (3) tracts will accommodate open space, although with the exception of the mine site (Tract C), the open spaces are largely irregularly shaped, unbuildable areas of the property near the project entrance. There are no proposed amenities for the site although the applicant at one time discussed the notion of using the existing mines as some sort of museum. Staff notes that the site is subject to two (2) major drainages, which bisect several lots and should be placed within drainage tracts. Staff further notes that it is yet unclear how this project will accommodate sewer service and that if the project is to be served by any type of package treatment plant, said plant would need to be placed within its own tract, which has not been identified on the Preliminary Plat.
9. The site is largely located within the Upper Sonoran Desert, which the applicant considers to be an amenity. Although there is no proposed landscaping, with the possible exception of the project entrance, the areas disturbed by the proposed road improvements will be re-vegetated in accordance with the Hillside

Regulations. The applicant does not propose any subdivision monuments or signage.

10. The site encompasses approx. 459 acres of rugged, mountainous terrain, located in a Class 2 County Island bounded by Scottsdale, Cave Creek, Carefree and the Tonto National Forest. Elevation of the site varies from approx. 2,800' above sea level where the Ocotillo Wash leaves the site near Lot 2, to approx. 4,250' above sea level at the project's highest point, which is towards the rear of Lot 39.
11. There is an existing dirt road that traverses the site. If the subject subdivision is approved, this road would be improved to a two (2) lane paved road inside one of two (2) private street tracts (Tracts "A" and "B"). The proposed cross-section shown on Sheet 2 of the plan set indicates a 27' wide tract within a "roadway slope easement" of varying width. The Preliminary Plat also shows an 18' wide paved road, with curb and gutter along the uphill side, and a turn-down pavement edge along the down hill side. The down hill side will be protected by a guardrail set 4'-6" off the edge of the pavement. Along the uphill side there will be a 2' wide slope bank leading down to a 2' wide drainage swale. Beyond the edge of the tract on both the uphill and downhill sides will be a roadway and slope easement in which the cut and fill needed to accommodate the roadway would occur. Dry utilities and potable water will run within the street tract and will be placed under the paving.
12. * The aforementioned roadway tract configuration was one of the issues what was discussed during the August 10th meeting. At that time, staff and the applicant agreed that the paving cross-section would consist of 20' of paving, in addition to the curb and gutter, and that the road would be placed within a 24' wide tract as opposed to 27' as originally proposed. Having stated this, the Preliminary Plat has not been revised to include these details.
13. The property is currently zoned Rural-190, which requires the following development standards. There is no associated zone change request, thus these standards would apply.

Building Height	30' / 2 stories
Front Yard	60'
Side Yard	30'
Street-side Yard	30'
Rear Yard	60'
Lot Area	190,000 sq. ft.
Lot Width	300'
Lot Area per Dwelling Unit	190,000 sq. ft.
Lot Coverage	5%
Building Separation	15'

14. * Staff notes that the since the subject property is located within hillside, the MCZO Hillside Development Standards also apply. Thus, building heights would be measured from natural grade. Likewise, the maximum hillside disturbance including driveways, slope easements, and other earthwork is limited to 5% of the total hillside area of the lot, the exception to the disturbance rule being individual on-site septic systems, and a temporary construction band not to exceed 7' in width. The effect of the existing and proposed disturbance associated with the interior roads is a critical issue that must be addressed if this project is to be deemed viable. This issue was discussed during the August 10th meeting, but remains unresolved.
15. The site will be served by a public water system. An 8" water line would enter the site at the subdivision's access point. This water system would be divided into several pressure zones to accommodate the changes in elevation. A water tank would be located in a tract located near Lot 39 at an elevation of 4,160' above sea level. Various pumping stations would be placed throughout the site to increase pressure to overcome increases in elevation, while check valves would be integrated into the system to prevent head pressure from damaging the system. Pressure regulating devices would be installed to protect each house from excessive pressures within the system. Fire hydrants would be installed throughout the subdivision, spaced consistent with Rural/Metro Fire Department (RMFD) standards. The applicant also proposes that each house would be equipped with fire sprinklers, which is consistent with RMFD's comments, but may cause coordination issues during the permitting of each house. While staff does not support this proposal, should the Commission wish to approve the subject subdivision, staff recommends a stipulation requiring a plat note discussing fire sprinklers be placed on the Final Plat and that said fire sprinklers be reviewed and approved by RMFD prior to the issuance of any residential permits within this subdivision.
16. * While the site would be served by a public water system, it is not clear at this time whether the applicant intends to establish a sewer system or utilize on-site septic systems. A package plant was discussed during the early phases of this project; however, issues regarding maintenance and operation of the facility suggested that a package plant would not be feasible. At which time, the applicant stated they would not pursue a package plant, but would instead utilize individual on-site septic systems. Recently, the applicant has reversed their position on this issue again.
- 17.* If the project is to be served by individual on-site septic systems, certain information relating to the geology of the site needs to be submitted to MCESD for review and comment prior to the approval of the Preliminary Plat. Since the geology of the site will not support standard septic systems, alternative systems must be used. These systems would likely incorporate evapo-transpiration beds and would likely take up considerable lot area adding to the level of hillside

disturbance, although said disturbance is exempt from the hillside disturbance calculation. To date, the applicant has not complied with this requirement and seemingly refuses to do so although the applicant has met independently with MCESD staff to determine the extent of the geological data needed at this time.

18. * As noted, the applicant has not complied with MCESD's requirement, essentially stating that since it is obvious that the geology will not support standard septic systems, a Soils Test Plan is irrelevant. During the original Commission hearing, MCESD staff attempted to explain to the Commission the relevance of the required data, when the applicant stated they would indeed utilize a package treatment plant to serve the site. Believing that everyone was in agreement that the project would be served by a package treatment plant that would be owned and operated by a certificated entity as opposed to the HOA, the Commission continued the case so that the details could be worked out.
19. * During the August 10th meeting, however, the applicant stated a package plant would not be feasible since Global Water Management was looking at a more regional solution to providing sewer service in the north Cave Creek area and was not interested in owning or operating this package plant. This placed staff back in the position of trying to convince the applicant of the importance of submitting the required data relating to on-site septic. MCESD met with the applicant on a subsequent date to discuss the extent of soils testing, but when pressed to provide that information prior to the re-hearing of the case by the Commission, the applicant indicated they were going to utilize a package treatment facility.
20. * As of the writing of this report, staff cannot state with any certainty whether this project will be served by septic, package plant or some future as yet to be constructed public sewer system. There are obvious public health concerns associated with this issue thus, staff recommends the request not be approved until the applicant has met MCESD requirements for whatever sewer solution is ultimately proposed.

Analysis of Conformance with Adopted Plans:

21. **Maricopa County "Eye to the Future 2020" Comprehensive Plan:** The Comprehensive Plan designates this site as being within the Rural Development Area, which calls for rural land uses with a maximum density of 0-1 d.u./ac. The proposed subdivision is consistent with the Comprehensive Plan in this respect. The Comprehensive Plan also states that staff will take into consideration the municipality's land use plan; however, the subject site does not lie in the City of Scottsdale, the Town of Cave Creek, or the Town of Carefree General Plan area.

Existing On-Site and Adjacent Zoning:

- | | | |
|-----|----------|--|
| 22. | On-site: | Rural-190 |
| | North: | Rural-190 |
| | East: | Rural-190 and HC (City of Scottsdale) ¹ |
| | South: | Rural-190 |
| | West: | Rural-190 |

Existing On-Site and Adjacent Land Use:

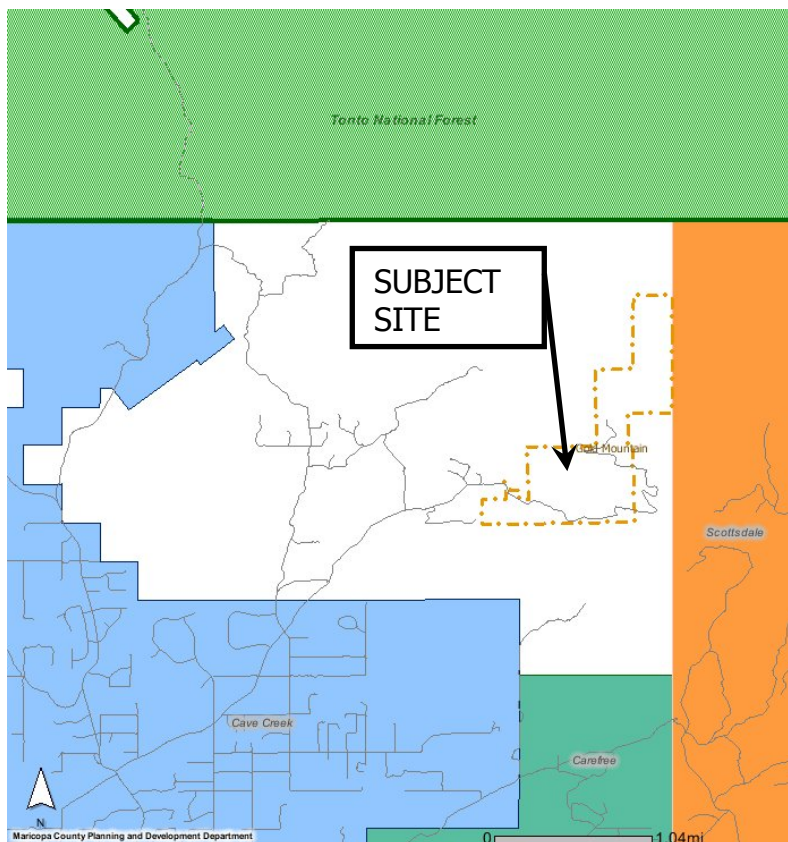
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|-----|----------|--|
| 23. | On-site: | Vacant (vacant hillside parcels) and mining (five inactive mine sites) |
| | North: | Vacant (vacant hillside parcels and BLM land), then forest land (Tonto National Forest) |
| | East: | Vacant (open space tract within hillside subdivision), then residential (single-family lots in hillside subdivision) |
| | South: | Vacant (vacant hillside parcels) |
| | West: | Vacant (vacant hillside parcels, and BLM land) and residential (single-family homes on 4+ acre lots) |

Area Land Use Analysis:

24. The subject site is located in an area of extreme topography. Located to the east of the site, within the City of Scottsdale, is the Desert Mountain subdivision, which is a large-lot, hillside development. Located west of the subject site are several houses sited on large lot-split parcels. Located to the north of the site are a few private parcels not included in this subdivision, while to the north of these parcels is the Tonto National Forest (TNF) boundary. Immediately adjacent to the subject site along a portion of its western and northern boundaries is a section of BLM land. Located within the BLM land is a series of private in-holdings that are otherwise not adjacent to other private lands.
25. While the City of Scottsdale abuts this property, it is more closely connected with the Town of Cave Creek and actually takes access from within the Town. The majority of this area is isolated as it is surrounded by considerable topography with a minimal road network. Cave Creek Rd. is the main thoroughfare connecting the Towns of Cave Creek and Carefree. From this road are two (2) roads, Spur Cross Rd. and Schoolhouse Rd., which extend in a northward direction and are interconnected through a series of smaller residential streets, providing two means of access to this region. In the event of a wildfire event that affects this region, the area could be evacuated, although both of these streets empty out approx. ½ mile apart, which in and of itself would exacerbate evacuation efforts

¹ The City of Scottsdale Zoning Ordinance defines the HC district as "Hillside Conservation".

26. However, staff notes that the Town of Cave Creek has adopted a "Code Red" program in which residents may obtain emergency evacuation information. Having observed this, the subject subdivision is located at the end of an existing cul-de-sac already serving several parcels. The subject subdivision would add 61 lots to that cul-de-sac, thus adding to the evacuation problem in the event of an emergency. The lack of ability to effectively evacuate the subject subdivision in the event of a wildfire is the major obstacle that the developer needs to overcome if this project is to earn staff support.
27. The following map expresses the subject site in relation to the municipalities of Scottsdale, Carefree, and Cave Creek, as well as the Tonto National Forest.



Adjacent Road Status:

28. **Fleming Springs Road:** Existing privately maintained 2-lane paved collector road within a prescriptive easement leading up to the subdivision's western boundary. No additional dedications or improvements are required of the developer for that portion of the road that is located west of the site; however, Fleming Springs Rd. is also the main roadway within the subject subdivision, thus the developer will be required to make improvements to Fleming Springs Rd. within the subdivision, in addition to the two (2) internal roads feeding Fleming Springs Rd. within the subdivision. Also, the developer will be required to make off-site improvements to

Fleming Spring Rd. for that portion of the road that lies east of the subject site. These improvements will include paving, curb and gutter, and guardrail.

Utilities and Services:

- | | | |
|-------|---------------------------|---|
| 29. | Water: | Global Water Management, LLC |
| 30. * | Wastewater: | Undetermined |
| 31. | Fire Protection: | Rural/Metro Fire Department (RMFD) |
| 32. | Police Protection: | Maricopa County Sheriff's Office (MCSO) |
| 33. | Electric: | Arizona Public Service (APS) |
| 34. | Telephone: | Qwest Communications |
| 35. | Cable Television: | Cox Communications |
| 36. | Public Schools: | Cave Creek Unified School District |
| 37. | Refuse Collection: | Private (undetermined) |
| 38. | Natural Gas: | None |
| 39. | Irrigation: | None |

Background:

- 40. **July 2, 1999:** A Preliminary Plat was submitted under S 99-32p for a project known as Gold Mountain Estates. Said project shared some of the same land mass as the subject proposal; however, due to strong opposition from staff and the public, the case was subsequently withdrawn by the applicant on August 27, 1999.
- 41. **Summer 2005:** Several members of staff, two (2) Commissioners, and the applicant toured the subject site. This tour occurred during the Cave Creek Complex Fire, which ultimately came within ¼ mile of the northern boundary of the site.
- 42. **August 22, 2005:** Beus Gilbert PLLC, on behalf of Gold Mountain, LLC submitted an application for a Preliminary Plat under S2005065, the subject case.
- 43. **October 18, 2005:** The subject proposal was reviewed at a regularly scheduled TAC meeting.

44. * **July 27, 2006:** The Commission continued the subject case to a date-certain of September 21, 2006 to allow the applicant time to meet with staff in an effort to resolve various issues. An excerpt of the approved minutes of this hearing are included as an attachment to this report.
45. * **August 10 2006:** The applicant met with staff from various County reviewing agencies to discuss outstanding issues. A synopsis of this meeting follows:
- **Waste water treatment facility:** In order for this site to be served by a WWTF, a Special Use Permit would be required. This would necessitate a revision to the Preliminary Plat such to create a tract for this purpose. In addition, the timing of the SUP and related construction permits relative to the Final Plat needed to be discussed, as would the requirements of MCESD.
 - This issue was not brought to closure. The engineer for the project stated that they had been in contact with Global Water Management regarding their taking over the operation of the system, but apparently Global is working on a regional solution for the area with the Town of Cave Creek and is not interested in this package treatment plant. Thus, the applicant is still considering alternative septic systems, which would be used in the interim until the regional solution was in effect.
 - **Legal Non-conforming (LNC) status:** Staff intended to discuss what constitutes LNC as well as the process for obtaining LNC status on the existing roadway and had a LNC specialist on hand for that purpose. The project engineer presented a scenario showing a cross-section that would be widened beyond current condition and argued that any new disturbance should count towards lot disturbance, but the area of the old disturbance should not. He also argued that to tear up the existing road bed for purposes of improving said road should not count towards additional disturbance. Staff agreed and asked that the applicant prepare an exhibit that expresses the level of existing hillside disturbance. The applicant submitted this exhibit on September 11th; however, this exhibit does not differentiate between new and existing disturbance, thus the extent of the LNC areas cannot be determined.
 - **Lot width:** The issue of lot widths was discussed in that to push the setback deeper into the lot would be attempting to re-define lot width and that they were not the 1st to offer that as a solution. Staff indicated while it was not our preference, we would accept a flag lot configuration wherein the area within the flag would be called out as an access easement serving that lot. Staff suggested they not do any unusual front lot line configurations as currently shown on the Preliminary Plat as that would only confuse matters during permit review. The Preliminary Plat needs to be revised to show the correct lot configuration.

- **Slope easements:** The Preliminary Plat currently shows a "Roadway and Slope Easement" that runs adjacent to the street tract, although the street tract is currently shown too wide. Staff indicated that the front setback needed to be set adjacent to the easement, which would affect the lot width. The project engineer argued that applying the setback in this manner had the potential negative effect of increasing the amount of hillside disturbance due to an increased driveway length and could potentially push a building envelope deeper into the lot and out of the most suitable area in which to site a house.
- Staff agreed with the engineer and erroneously included a stipulation to require said easement to be called a "Slope Easement" leaving out the reference to the road. Having stated this, staff was later corrected in that the easement must make reference to both the slope and roadway, since to do otherwise would create a condition wherein the slope bank itself might encroach into the adjacent building envelope, creating a potentially unsafe condition. This information was relayed to the applicant, who stated they would consider our position.
- **Drainage issues:** Staff reiterated the position of placing drainage/flood plain corridors with tracts rather than easements. The applicant argued against that approach citing the loss of buildable lots. Staff indicated that an easement scenario would only be acceptable if there were strong language discussing maintenance responsibility on the Final Plat. The applicant indicated they would draft such language at Final Plat. Having stated this, staff is still opposed to the idea of allowing drainage features to be placed within private easements for various reasons and notes an up-coming Text Amendment to the MCSR intended to speak to this issue. Staff further notes that several lots are encumbered by these easements which will affect the ability to site a house on those lots possibly necessitating future variances, which staff could not support since the hardship is self-created by virtue of the subdivision design.
- **Hillside Roadway Standards:** Staff indicated concerns over the extent of the existing and proposed disturbance associated with the internal roads. Staff asked the project engineer to prepare a hillside disturbance exhibit. Said exhibit was submitted to staff on September 11th (the same exhibit referenced in the above LNC discussion). Staff performed a cursory review of this exhibit and found several discrepancies, bringing into question the applicability of this exhibit in the absence of a revised Preliminary Plat.
- Among the issues discovered during the review of this exhibit are, 1) in several instances, the level of hillside disturbance associated with the road

and slope easement exceeds 5% of that lot's hillside area, rendering the lot un-buildable; 2) in several instances, the level of hillside disturbance associated with the road and slope easement is such that the amount of hillside available for development will not support the size of house likely to be constructed in this subdivision given the demographic of the buyer; 3) the exhibit calls out the limits of the "grandfathered" area, but does not quantify the amount of hillside disturbance that is to be considered Legal Non-conforming. These three issues may well exacerbate the aforementioned variance problem. In addition, the geometry of several of the lots does not agree with the current iteration of the Preliminary Plat (although staff notes this may be in deference to the aforementioned lot width issue).

- **Roadway cross-sections:** Discussed were the issues of the tract width, paving width and configuration, and the location and spacing of turn-outs. MCDOT agreed to allowing the internal road to be constructed with 20' of asphalt paving bounded by curb and gutter on the up-hill side, to be located within a street tract width of 24', but maintains their stance on secondary emergency access. The project engineer stated that while they attempted to place turnouts at locations where sight visibility is limited, they were not able to do this in all cases. Staff notes that the Preliminary Plat has not been revised to reflect these changes.
- **Secondary emergency access:** Staff reiterated the position of not supporting this request in the absence of secondary emergency access, but indicated a desire to not dwell on this subject as it could not be resolved at a staff level and would be time better spent on other matters. The applicant respectfully disagreed with staff's position regarding secondary access, but agreed to spend the time discussing other matters.
- **Defensible space:** In addition, the matter of the 30' defensible space required by RMFD was discussed as the fact that the disturbance created by the creation of the defensible space could constitute hillside disturbance and that it was an example of the dichotomy that often exists between fire protection and preservation of the natural environment. The applicant stated that they did not envision the area within the defensible space would be denuded of all vegetation and that they would verify the requirements with RMFD. RMFD followed up with staff via email and described defensible space as the "removal of ladder fuels and vegetation from against a structure". RMFD went on to clarify that the intent is to not completely clear the area of vegetation so as to prevent the loss of top soil during a heavy rain.

In practice, staff envisions that the defensible space should be implemented using a "light-on-the-land" approach, serving to remove by

hand only that vegetation necessary to create defensible space, without affecting the natural character or integrity of the underlying top soil. Staff recommends a stipulation to that effect (included as a new stipulation 'cc').

- **Stipulations:** The applicant requested staff amend the list of recommended stipulations as indicated in the attached handout. A complete discussion regarding the proposed stipulation language is included elsewhere in this report.
 - **MCDEM:** MCDEM indicated that it was not within their purview to tell the local fire authorities how to fight fire and that if the local fire department was supportive of the project, MCDEM would have no objections.
46. * **August 23, 2006:** The applicant met with MCESD staff to discuss the use of individual on-site septic systems and the level of geological information needed for MCESD to render an opinion as to the viability of said systems on the subject site.
47. * **September 21, 2006:** The Commission continued the subject case to a date certain of October 5, 2006 to allow additional time for the applicant to address outstanding issues.

Reviewing Agencies: (This Preliminary Plat was reviewed at the TAC meeting of October 18, 2005.)

48. **Department of Transportation (MCDOT):** In a memo dated April 12, 2006, MCDOT indicated the following requirements (see attached memo):
- 1) MCDOT has concerns about only one access for this subdivision and for long cul-de-sacs.
 - 2) Recommend street pavement width of 24 feet and an easement width of 40 feet for Tract A.
 - 3) Show pipe size for existing water main at subdivision boundary.
 - 4) Show radius for cul-de-sacs (sheet C9).
 - 5) Show street names on (sheet C4) all segments.
 - 6) Show easement width for Fleming Springs Road at subdivision boundary.
 - 7) Address continuous maintenance of Fleming Springs Road to the site.
 - 8) Provide written confirmation from fire & emergency services on road design and only one access roadway.
49. * Since the writing of the above memo, MCDOT agreed to allowing the internal road to be constructed with 20' of asphalt paving bounded by curb and gutter on the up-hill side, to be located within a street tract width of 24'. MCDOT maintains their stance on secondary emergency access.

50. **Environmental Services Department (MCESD):** In a memo dated May 1, 2006, MCESD expressed concerns over the proposed water and wastewater solutions for the subject site (see attached memo). MCESD has not offered support for the subject proposal at this time; however, should the Commission wish to approve this Preliminary Plat, staff recommends stipulations to address these outstanding issues.
51. * During the original Commission meeting of July 27th, the issue of sewage disposal/treatment was discussed and the case was continued largely for the purpose of resolving this issue. As noted elsewhere in this report, however, the manner in which sewer would be accommodated has not been determined, thus MCESD's position on this issue has not changed.
52. **Drainage Plan Review:** In a memo dated April 13, 2006, Drainage Review stated the following items would need to be addressed prior to drainage approval (see attached memo):
- 1) Please provide geomorphology evidence or erosion setback evidence that all lots along Ocotillo Wash are buildable.
 - 2) Please remove statement "Preliminary not for construction or recording" on all pages.
 - 3) Ocotillo Wash and Cottonwood Creek will need to be legally described and recorded as Drainage Tracts.
 - 4) Please show erosion setback lines and floodplain boundaries on the plat.
53. The April 13, 2005 Drainage Review memo also states that prior to Final Plat approval, the following items must be addressed:
- 1) You will need to place a statement in the plat notes that each lot will require individual Grading and Drainage plan to include an individual drainage report.
 - 2) We will require on lot retention, for the 100-year 2 hour storm, for the disturbed portion of each lot, the remainder of the lot will not require retention.
 - 3) Please determine and depict on the final plat the backwater effect caused by culvert inverts and classify the area as a drainage easement including the restrictions.
54. **Flood Control District (FCD):** In a memo dated October 12, 2005, FCD stated that a portion of the subject property lies within the delineated 100-year floodplains of Cottonwood Creek and Ocotillo Wash. FCD stated that the proposed use would not be in conflict with any existing or proposed Flood Control District projects, but requires that prior to any development, a Floodplain

Use Permit must be obtained (see attached memo). A stipulation to this effect has been included.

55. **Maricopa County Department of Emergency Services (MCDEM):** In a memo dated October 14, 2005 (see attached), MCDEM expressed concerns over the project's limited access affecting the ability to effectively evacuate the subdivision or place emergency crews on site in the even of a wildfire given the remote location and mountainous terrain. MCDEM concurred with RMFD's original position requiring a minimum of 20' paved internal road, which should be designed to accommodate large firefighting vehicles, including maximum grade and minimum turning radius requirements. MCDEM supported secondary emergency access and the possibility of a heliport to effect air-lift evacuations (although RMFD stated verbally that such a heliport could hinder air operations in the event of a wildfire emergency). MCDEM supported sprinklering all residential buildings and the implementation of a 30' defensible space around said buildings. MCDEM seeks verification from RMFD regarding the placement of fire water storage tanks although staff notes that the site will be served by a public water system, presumably providing appropriate fire flows.
56. * In a memo dated July 28, 2006, MCDEM indicated they would defer to Rural/Metro Fire Department regarding the viability of the project as it pertains to fire protection and evacuation. MCDEM affirmed this position during the aforementioned meeting on August 10th (see attached memo).
57. **Maricopa County Parks and Recreation (P&R):** In a memo dated September 26, 2005, P&R requested the following stipulation (see attached memo):
- "One hundred fifty dollars (\$150) per house will be paid by the developer as each residential building permit is issued to a fund for the Cave Creek Regional Park for trails and facilities enhancement and maintenance. The county shall deposit and hold all receipts in the parks special revenue fund for the specific purposes stated above. All interest earned on the fund shall remain an asset of the fund. The assets of this fund are not intended to replace existing county appropriations for similar purposes, but rather are intended as supplemental resources resulting from additional park usage by Gold Mountain residents. Maricopa County Parks and Recreation Department will provide each residential unit in the Gold Mountain subdivision with a one-year, seventy-five dollar (\$75) voucher toward the purchase of an annual pass for entrance into any desert mountain regional park administered by said department, except Lake Pleasant Regional Park."
58. **Rural/Metro Fire Department (RMFD):** In a letter dated November 16, 2005, RMFD stated that a road grade of 18% is the maximum acceptable and states that

an 18' wide paving cross-section width with periodic turnouts is acceptable, but secondary access to the development from the City of Scottsdale is required. (RMFD originally stated that a minimum of 20' of paving is required, but later stated that a lesser width would be acceptable with the above caveats.) The developer must also provide Knox Box keys to all gates providing ingress and egress to the subdivision. (Staff notes that Fleming Springs Rd. currently is guarded by two separate, but sequential gates.) RMFD also states that a 30' fire break must be maintained around each property to prevent damage to structures in the event of a wildfire. In addition, RMFD requires a fire hydrant every 600 feet capable of providing a fire flow of 1,500 gallons per minute for a duration of two (2) hours. RMFD also requires a will-serve letter prior to any plan review.

59. * The evening prior to the original Commission meeting, staff received an email from RMFD amending their prior position subject to the following conditions: 1) the applicant would need to provide written documentation from the neighboring property owners that secondary access through these neighboring properties would not be granted; 2) the applicant would need to prove that adequate fire flow/hydrant placement would be maintained on site; 3) streets would not exceed 18% grade and would be provided with periodic turnouts; and 4) a minimum of 30' of defensible space would be established around each home (see attached email.)
60. **City of Scottsdale:** In a letter dated August 25, 2005, the City of Scottsdale expressed interest in maintaining the visual, environmental and safety aspects of this subdivision (see attached letter). Paraphrased, the City's comments are listed below:
- Concerns over the apparently excessive cut and fill at the cul-de-sac locations.
 - Ocotillo Wash not shown in correct location and should be placed within easement.
 - Minimum of 20' wide paving cross-section to facilitate emergency vehicles.
 - 1:1.5 slope angles too steep resulting in inability to re-vegetate. Recommends 2:1 maximum fill slope with re-vegetation. Cut slopes to be treated with desert varnish.
 - Lots 21 and 22 should not be located on top of major culvert.
 - Culverts should not be placed on top of fill materials due to excessive erosion.
61. **Town of Carefree:** In a letter dated September 14, 2005, Carefree offers comment with respect to the proposed subdivision (see attached letter). Paraphrased, the Town's comments are listed below:
- The Town states that a master development plan would provide for "a comprehensive understanding of environmentally sensitive areas, prominent

view sheds, hydrological features, and pedestrian and vehicular circulation standards and design”.

- The proposal contains areas of significant cut and fill, which should be contained using retaining walls of masonry, stone or stone veneer. Exposed cuts should be stained with a desert varnish and all spill slopes should be prohibited.
 - Building envelopes should be incorporated and driveway design standards should be implemented to minimize disturbance.
 - Discourage the use of alternative septic systems due to odor and maintenance issues.
62. **State Historic Preservation Office (SHPO):** In a letter dated October 28, 2005, SHPO stated that the subject property should be surveyed for cultural resources (see attached letter).
63. **Arizona State Mine Inspector's Office (SMIO):** The SMIO indicated verbally that inactive mines must be fenced and signed and that the property owner is responsible for ensuring that such enclosure is installed and maintained. The SMIO indicated that Title 27 of the Arizona Revised Statutes is the applicable statute.
64. **Arizona Department of Water Resources (ADWR):** In a letter dated September 30, 2005, ADWR stated that the Cave Creek Water Company does not have the CCN to service this area and that a Certificate of 100-year Assured Water Supply is required (see attached letter). Note that the Preliminary Plat states that Global Water Management is the water service provider. Regardless of the provider, a valid CCN and assured water supply are required.
65. **Other:** The Town of Cave Creek, Cave Creek Unified School District, Arizona State Fire Marshal's Office, Arizona State Land Department, Arizona Game and Fish Department, US Forest Service – Cave Creek Ranger District, US Fish and Wildlife Service, US Bureau of Land Management, Foothills Focus, Dove Valley Coalition, and the Maricopa County Sheriff's Office were included in the routing of this request. To date, no comments were received from these entities pertaining to the request.

Discussion and Evaluation:

66. During first review, staff asked that the Preliminary Plat be modified such to include a lot width column in the lot table on Sheet 1, and pointed out several lots that appeared to not meet the minimum lot width of 300' as required in Rural-190 zoning. The applicant obliged and included the lot widths in that

table, and revised a number of lots; however, upon further analysis, it is apparent that many of the lots still do not meet the minimum lot width of 300' required in Rural-190 zoning.

67. Determining lot widths can be a convoluted process, which is exacerbated by irregular, hillside lots. The applicant attempted to resolve the lot width issue by reconfiguring the location of some of the lot lines, or by shifting the front setback line deeper in the lot; however, in all cases, the lot width is tied to the front setback, which is in a fixed position in relation to the front lot line. Staff recommends the subdivision be reconfigured such that each lot meets minimum lot width as defined by the MCZO as to approve otherwise would create substandard lots necessitating a variance(s) through the Board of Adjustment. Such a variance could not be supported by staff since the hardship is self-created and is avoidable through appropriate site design.
68. * The lot width issue was one of the issues discussed at the original Commission meeting of July 27th. The Commission directed the applicant to meet with staff to resolve this issue. During the subsequent August 10th meeting, it was agreed that modifying the geometry of the affected lots, as well as some of the neighboring lots, was feasible and could be accomplished. The reconfiguration of these lots would be part of the revised Preliminary Plat drawing, which was to be submitted prior to the case being re-heard at the October 5th Commission meeting.
69. * However, staff has not received the revised Preliminary Plat and cannot be certain that the lot width issue was adequately addressed. Staff has concerns over approving any sub-standard Preliminary Plat based on the assumption that said Preliminary Plat will be revised "post-approval" to meet the underlying zoning standards as this places staff in the position of potentially reviewing several iterations of a Preliminary Plat belonging to a case that is technically "approved". Further, staff has past experience with developers resisting complying with the resubmittal stipulation choosing instead to concentrate on resolving these issues during the Final Plat phase. Staff's opinion is that a Preliminary Plat is essentially a viability study that must be completed prior to approval and that to approve a substandard Preliminary Plat defeats this purpose.
70. During first review, staff also observed that many of the proposed lots were actually through-lots as defined by the MCZO. Simply put, a through-lot is one that fronts onto two opposing street frontages, thus creating two front yards. This creates a potential conflict with the types of accessory uses that are not allowed within a front yard, such as swimming pools and other accessory structures, thus generally staff prefers that a through-lot condition not exist and suggested that a 1' vehicular non-access easement be placed on the side of the

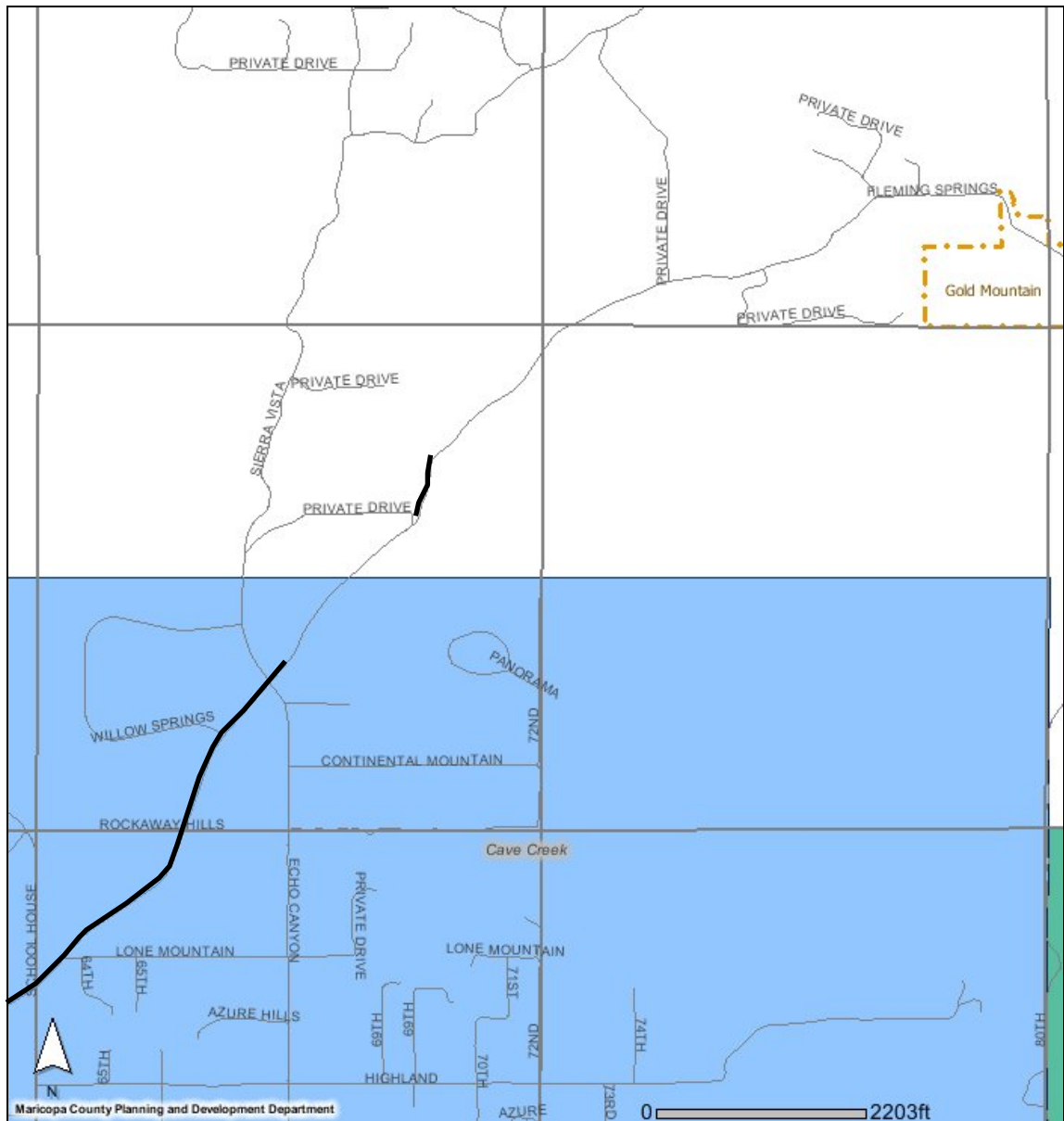
lot that would not likely provide access. The applicant responded to this request by stating that to include a VNAE would unnecessarily limit a future lot owner's ability to access and develop the lot. While the aforementioned limitations to accessory uses might be a problem, staff conceded that due to the rough terrain, the disturbance limitation imposed by the Hillside standards, and the relatively large size of these lots, the likelihood of accessory structures being placed within 60' of the street minimal, thus staff agrees to acquiesce on this issue.

71. The property is bisected in two locations by major drainages. The Ocotillo Wash flows from east to west along the southern portion of the site. This wash enters the property along the eastern boundary of Lot 30 then bisects Lot 30 and a portion of Lot 18 before leaving the site's southern boundary. The wash re-enters the site at Lot 6, bisecting the southern portion of that lot. The wash continues along the south side of Lot 7 then splits Lot 8 almost directly down the middle. The wash then straddles the northern boundaries of Lots 1 and 2 before leaving the site. Likewise, at the extreme northern end of the site, Cottonwood Creek (ephemeral) enters the property along the eastern boundary of Lot 61 then leaves the property at Lot 60, bisecting the southern portions of those Lots.
72. Both of the aforementioned drainages are within delineated floodplains; however, the limits of those floodplains are not clearly articulated on the Preliminary Plat drawing. Additionally, the presence of these washes will likely impede the ability to place houses on the affected lots due to erosion and septic setbacks. Staff's preference is that the developer place these wash corridors within tracts under common ownership, which is consistent with Drainage Review comments. The bridging of these drainages will likely be part of the lot development in order to provide all-weather access to these lots.
73. The applicant had originally proposed that the water system be maintained and operated by the HOA. MCESD indicated that such an arrangement would not be acceptable in that an HOA is not qualified to run such an operation and would not have the resources to effect repairs on the system should they become necessary. In response to those concerns, the applicant now proposes that the water system be owned and operated by Global Water Management Company. There may be other technical issues, such as the lack of a loop, the ability to pump the system to achieve rated fire flows, and the possibility of failed pressure check valves at the service connections that could result in a particular home being flooded, which would need to be satisfied to the satisfaction of MCESD before earning staff support in this regard.
74. * As noted elsewhere in this report, the applicant originally proposed to serve the site via a package treatment plant; however, there may have been a miscommunication as far as what entity would operate and maintain this facility as MCESD will not support a scenario where the HOA provides this service. In response, the applicant proposed that each lot would be served by its own septic

system, which was the scenario presented to the Commission on July 27th. At that meeting, the applicant stated that they always intended for the site to be served via a package treatment plant, which prompted the Commission to continue the case so this issue could be resolved. During the subsequent meeting of August 10th, however, the applicant stated that Global was not interested in pursuing a package plant, thus the site would indeed be served by individual septic systems. The applicant met again with MCESD to determine the extent of soil testing needed to determine the viability of the proposed septic, but when pressed to provide that information to MCESD, the applicant stated the site would be served by a package plant. To date, the manner in which sewer service would be provided to this site has not been resolved.

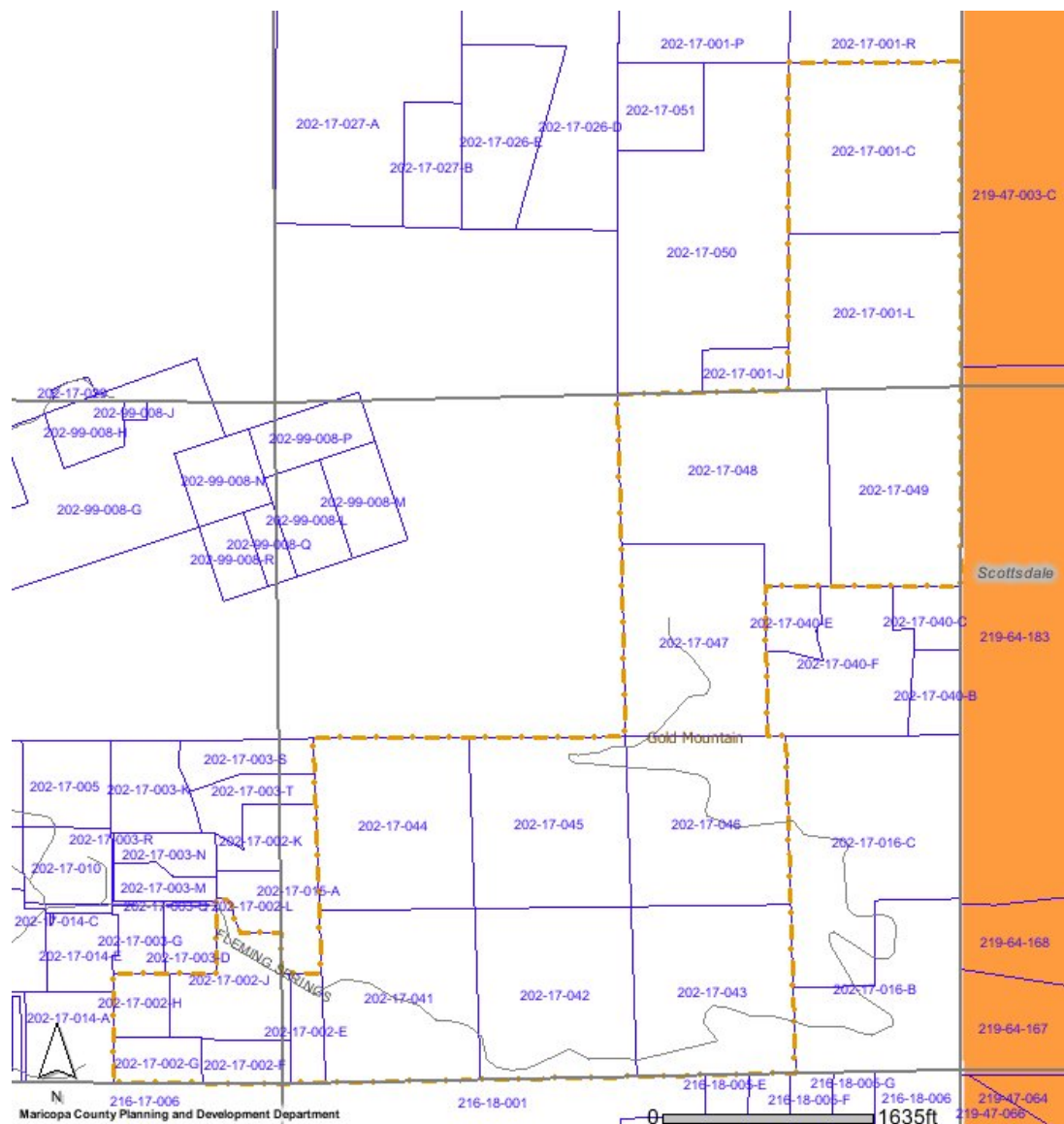
75. Since the site is rugged topography with hard rocky soils, a conventional septic system will not likely work. Thus, alternative septic systems, likely involving large evapo-transpiration beds would be required. The MCZO Hillside Regulations state that the area devoted to septic systems is exempt from the disturbance calculation. Thus, it is conceivable that very large portions of each lot would be disturbed by these septic systems, thus adding to the overall scarring of the area. Having noted this, it is arguable that the same type of septic systems would be required in the absence of the subdivision, were the site to be developed in a lot-split fashion.
76. This area has limited access. Access to the site is via Fleming Springs Rd. which is a 2-lane paved roadway located within a prescriptive easement. While the majority of this road is not part of any publicly maintained right-of-way network, it appears to be well maintained. The closest public ROW lies within the Town of Cave Creek approx. 2 miles from the project boundary, with the exceptions being a short (approx. 700' long) segment of MCDOT ROW located just north of the Cave Creek Town limits.
77. The following map depicts the existing road network in relation to the western edge of the subject subdivision. The segments of publicly dedicated road are shown with a darker line than the rest of the roadways. The section lines are included to provide reference, however there are no section-line arterials in this area.

[Map on following page.]



78. The subject property is an assemblage of parcels all under common ownership, as depicted in the following map. Fleming Springs Rd. enters the site from the west and provides access to most of these parcels via a series of overlapping private easements. While these easements are indicated on the plat drawing, they do not necessarily follow the actual road and will be largely abandoned with the recordation of the final plat. The road also exits the site near the east side of the subdivision, then re-enters the site further to the north providing access to the northern portions of the project.

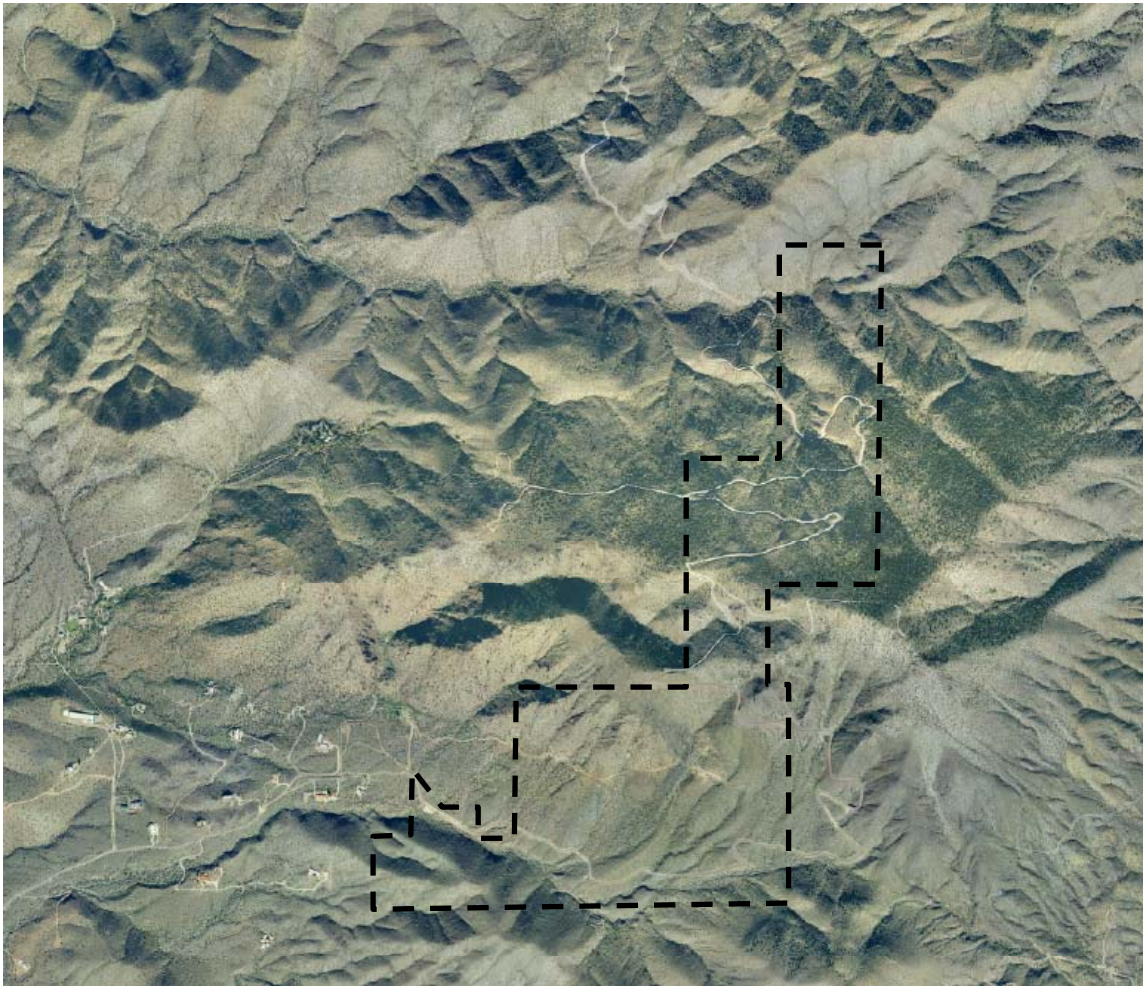
[Map on following page.]



79. While not indicated on the above map, there are segments of existing dirt road that extend from Fleming Springs Rd. appearing to provide access to other parcels which are not part of this project. There are also existing dirt roads that spur off from Fleming Springs Rd. that are not on the map, but provide access to lots within the subject site as well as the existing mines. While Fleming Springs Rd. is paved up to and slightly beyond the project entrance, the majority of the road within the site the road is not currently paved, although if this project is approved, this road will be improved as part of the required infrastructure.
80. Also not shown on the above map is the fact that Fleming Springs Rd. actually leaves the site's northern boundary and extends northward onto the adjacent parcels and stopping approx. 1/2 mile short of the Tonto National Forest boundary. This dirt road is depicted on Sheet 9 of the Preliminary Plat as extending from the end of the Mesa View Court turn-around; however, there is

no associated easement covering this road. Thus, it would seem appropriate that the Final Plat include an easement granting access to these adjacent properties to the north.

81. The following 2005 aerial photograph illustrates the existing roads as well as the extreme topography of the area. (Note the boundary of the subdivision is approximate due to limitations of the drawing tool.)



82. Many portions of this existing road are quite steep and narrow. Because of the steep terrain, there are areas of considerable cut, with the spoils created by that cut pushed off the downhill side of the road creating a considerable spill slope. Collectively, these cut and fill slopes are noticeable on the landscape. Staff has included a photo exhibit, which is included as an addendum to this staff report and illustrates the extent of the existing road, topography, and vegetation.

83. As noted, the site is overlain with a series of several separate road easements that roughly coincide with the location of the existing road. The applicant proposes that these easements will be abandoned during the Final Plat phase; however, staff notes these easements may provide legal access to neighboring properties. If that is the case, the developer will need to ensure legal access to these other properties.
84. In addition to these road easements, there is a 30' Ingress, Egress, and Utility Easement that provides access to a well site; however, the associated road does not fall within that easement and extends beyond the subject property to a neighboring property. Again, while the developer proposes to abandon this easement during the Final Plat stage, the developer will need to ensure legal access to the neighboring parcel.
85. There is a segment of Fleming Springs Rd. that leaves the subject site at the eastern boundary then re-enters the site to the north, which is covered by a separate 150' Access Easement. This easement will not be affected by this platting activity although off-site improvements to this road must be a part of this development process. Staff notes that the existing road does not fall with the exact boundaries of this easement, which may complicate the off-site permitting process.
86. In addition to these road easements, there are what appear to be Patent Easements located within the subject property. These fall along the southern edge of Section 14; the southern, eastern and northern edges of Section 12; and the southern and eastern edges of Section 1. The Preliminary Plat indicates these are to be abandoned. While County Counsel advised staff that the abandonment of Patent Easements on individual lots is not possible, in the case of a recorded subdivision, Patent Easements may be abandoned through the platting activity, provided the final plat provides for legal access to the neighboring parcels. In reviewing the subject Preliminary Plat, this does not appear to be the case, thus the removal the Patent Easements may not be feasible, although it is clear that the ruggedness of the terrain precludes the extension of any sort of linear, grid-like street system.
87. * MCDOT comments dated April 12, 2006 (see attached) state that the roadway should be designed such to include a 24' wide pavement cross-section within a 40' wide street tract. The applicant, however, initially proposed only an 18' wide pavement cross-section, within a 27' wide tract. As noted, 24' of road width is exempt from the disturbance calculations; however, that area that lies between the 24' exemption area and the tract line would again constitute 100% disturbance in an area that only allows 5% disturbance, regardless of whether that tract is 27' wide or 40' wide. Thus, staff recommended that the tract be limited to 24' in width, but include the 24' paving cross-section required by MCDOT. During the August 10th meeting, MCDOT agreed that the paving cross

section could be reduced to 20', exclusive of curb and gutter, to be located within a 24' private street tract.

88. As noted, the width of the roadway and slope easement will vary based on the severity of the cut and fill banks. The MCZO Hillside Roadway standards state that any disturbance located within the first 24' feet of roadway width is exempt from the disturbance calculation imposed by the Hillside regulations. Any disturbance that occurs outside of the 24' width will be assessed against the lot onto which the easement encumbers.
89. * The Preliminary Plat drawing shows the building envelopes for each of the lots in the subdivision; however, the front setbacks were measured from the line of the street tract as opposed to the line of the Roadway and Slope Easement line. The MCZO specifically states that the front setbacks are to be measured from the street easement line; however, staff agrees with the applicant that forcing a deeper setback may have the negative effect of increasing lot disturbance by creating a longer driveway. Likewise, lot widths are tied to the front setback. Since the line of the Roadway and Slope Easement will follow the cut and fill slopes, this line will be irregular, making the determination of lot widths more difficult.
90. * Going into the July 27th hearing, staff erroneously believed that these situations could be alleviated by simply renaming the "Roadway and Slope Easement" to simply read "Slope Easement", deleting the reference to the roadway. After conferring with other staff members, it became apparent that this approach would not be acceptable and would be in conflict with the Department's interpretation of the MCZO. Thus, staff recommends the easement remain as a "Roadway and Slope Easement".
91. In an effort to better understand the severity of the cut and fill banks associated with the proposed cross section, staff requested the engineer provide a number of cross-sections through various locations, in addition to longitudinal drawings depicting the gradient of the proposed roads. While no longitudinal drawings were included, some cross sections were provided; however, the horizontal scale of these drawings is not shown thus making any meaningful analysis impossible.
92. Considering the lack of detail at this point, while staff cannot support this proposal, should the Commission wish to approve the subject case, staff recommends a stipulation requiring the developer to submit fully engineered improvement plans that cover both on-site and off-site improvements, understanding that any off-site improvements are subject to separate permits for each individual parcel and must be accompanied by Property Authorizations from each of the affected parcel owners. Said improvement plans shall demonstrate that the proposed roadway meets the design criteria set forth by the Hillside Regulations. Should the project engineer be unable to demonstrate compliance

with the Hillside Regulations, the developer may apply to the Maricopa County Board of Adjustment (BOA) for a variance to those standards. Staff notes that it is incumbent upon the applicant to demonstrate a hardship or peculiar circumstance that warrants the granting of an exception to the zoning standards and that staff support and approval of a variance is not implied or guaranteed. Should the BOA vote to deny the requested variance(s), the applicant has the option of appealing that decision to Superior Court within 30 days of BOA action. If the applicant elects not to appeal the BOA's decision, the applicant may either redesign the roadway such to meet the Hillside standards, or may withdraw the final plat and related infrastructure permit requests. Another option available to the applicant is to submit a concurrent zone change request such to create the development standards through the RUPD process.

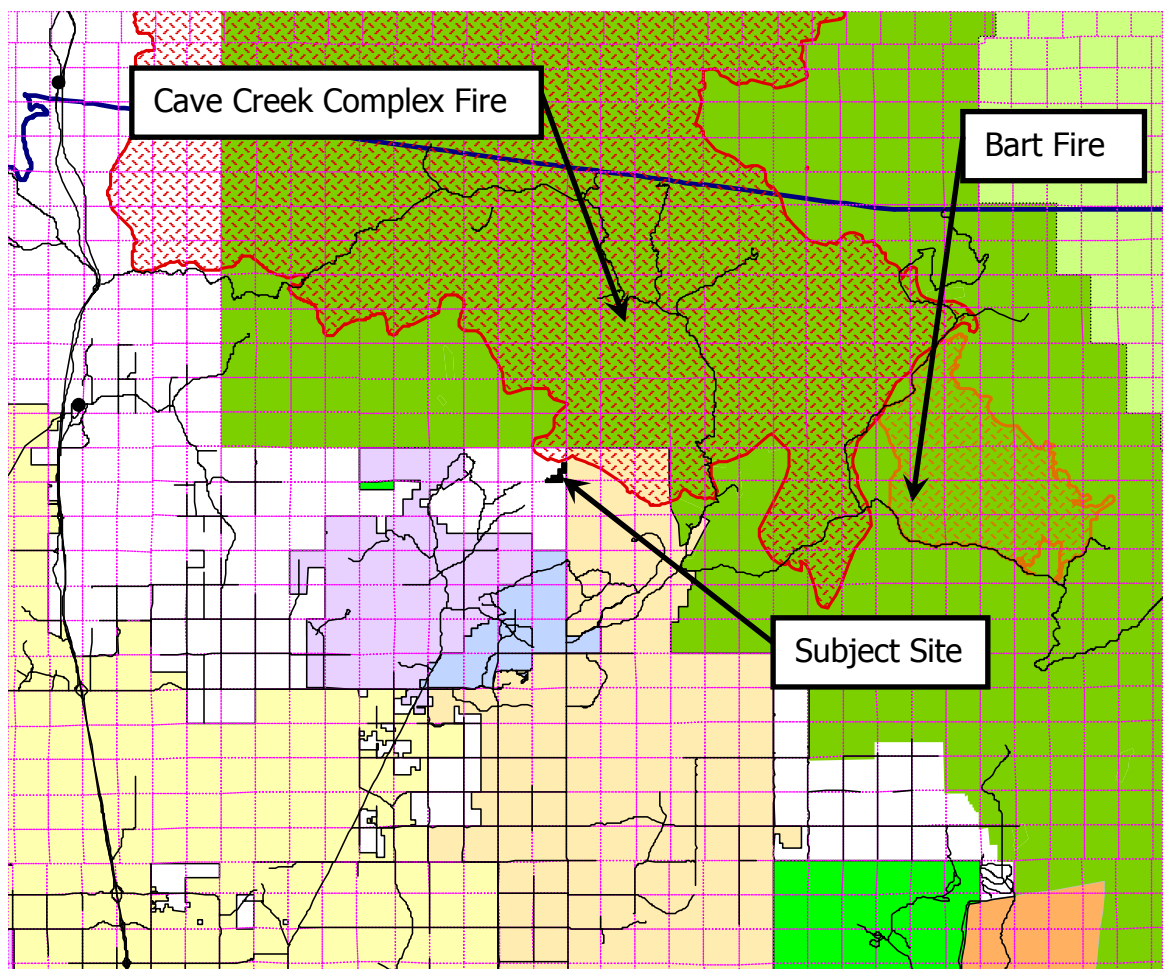
93. The Preliminary Plat shows a total of five (5) existing mines. Staff contacted the State Mining Inspector's Office and verified the general process regarding mine abandonment. Staff is concerned that the existence of these mines may constitute a hazard to the community if they are not abandoned in accordance with the Mining Inspector's criteria. Staff recommends a stipulation requiring these mines to be abandoned in accordance with these standards.
94. Also shown on the Preliminary Plat is a "Gift Lode". According to www.globalinfomine.com a "lode" is defined as "a mineral deposit consisting of a zone of veins, veinlets, disseminations, or planar breccias; a mineral deposit in consolidated rock as opposed to a placer deposit." Although staff is not certain, the term "Gift Lode" implies the boundary of a lode that was gifted to one person from another. Presumably, the person having the prior rights to the lode obtained those rights through the federal government through some sort of mining patent. What is not clear to staff is the implications of these patent rights with respect to the subject subdivision. In other words, will a future lot owner taking possession of a lot which has upon it a portion of the Gift Lode, have the rights to mine that land and if so, what will be the potential negative impacts of that mining activity to the surrounding neighbors.
95. Wildfires pose a major threat to the area, which staff considers located in the wildland/urban interface (WUI); defined as "any area where wildland fuels threaten to ignite combustible homes and structures"². Fuels in the lower elevations of this property tend to be light and flashy, which means they burn with great intensity, but cool off quickly (unlike heavy fuels as may be encountered in the timber districts). As the elevation of the subject site climbs, the fuels tend to become more brush-like in nature. These brush-type fuels, due to both arrangement and heavier fuel loading tend to burn even hotter, creating

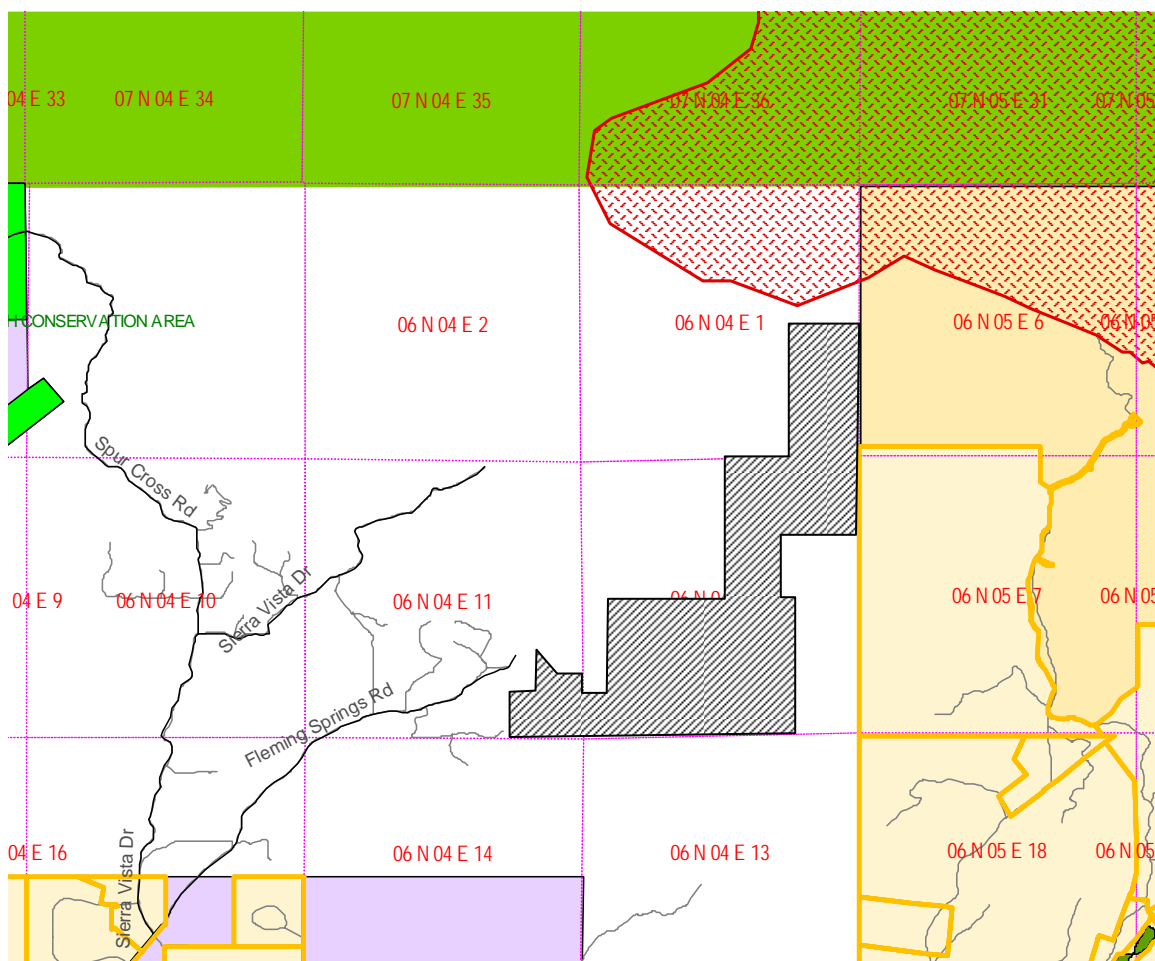
² Planning for Wildfires, Appendix A, Glossary of Terms, American Planning Association, Planning Advisory Service (PAS) Report Number 529/530

longer flames heights than might be seen in the lower elevations, thus exacerbating firefighting efforts.

96. Wildfires do not always burn with great intensity. During the early fire season, fires will “skunk” around in the grasses, with very minimal rates of spread. Firefighters can use hand tools and backpack pumps to suppress the fire with little difficulty, even in rough terrain. As the fire season progresses, however, the weather becomes hotter and dryer, driving out fuel moisture and intensifying fire behavior. As this occurs, firefighting efforts become more arduous, but fires may still be suppressed using direct attack techniques. These direct attack techniques may include hose lays although such hose lays are highly dependent upon an available water supply and how quickly firefighters are able to achieve initial attack.
97. Once the fire season is in full-swing, the fuels in an area reach an extreme state of dryness. Air temperatures reach 100+ degrees with low relative humidity and an often unstable air mass. If a fire breaks out in during these extreme conditions, extreme fire behavior will be encountered. It is this extreme fire behavior that is the concern in the WUI as fires can no longer be effectively suppressed using direct attack techniques. Rather an indirect, defensive approach must be utilized, which may include fire retardant drops from aircraft, burn-out operations using hand crews, and structure protection using engine crews.
98. The subject property is in close proximity to the 2005 Cave Creek Complex Fire, which was a lightning caused fire with the point of origin not far from the subject subdivision. As can be seen in the map on the following page, this fire came within a few hundred feet of entering the northern end of the subject property. Firefighting efforts were successful in keeping the fire from causing more damage to private property; however, the point of origin for this fire could just have easily been on site. Had this property been developed, egress from the subdivision may have been cut off, thus trapping people on the wrong side of the fire. Further, firefighting crews attempting to gain access to the site may have encountered traffic from evacuating residents, thus delaying the response.
99. The following two (2) maps illustrate the proximity of the subject site to the Cave Creek Complex and Bart Fires of 2005. (Section line grid included for reference.)

[Maps on following 2 pages.]





100. Staff notes that a considerable commitment of resources was needed to keep this fire from spreading southward and that the availability of these resources is not a certainty as fires in other areas may have these resources committed. If the Cave Creek Complex Fire had started after these resources were committed to another fire, the fire ground commander of the Cave Creek fire may not have been able to access these resources in a timely manner, resorting instead to engine crews and hand crews, which due to the inaccessibility and rough terrain of the site may not have been able to gain access in a timely manner.
101. According to the University of Arizona Cooperative Extension Service, two factors have emerged as major contributors to the loss of structures in the event of wild fire. These are the use of combustible roofing materials and the quality of the defensible space. Current Fire Wise doctrine calls for no less than 30' of "defensible space", which is defined as "an area around a structure where fuels and vegetation are treated, cleared or reduced to slow the spread of wildfire towards the structure"³. This is generally considered a minimum distance with

³ Creating Wildfire-defensible Spaces for Your Home and Property, University of Arizona Cooperative Extension Service, Page 1

the actual amount of defensible space increasing in direct proportion to fuels and slope.

102. In grassy fuels, the defensible space can be a little as 30' for slopes from 0 to 20%, but in order to properly create a defensible space for slopes of 21% to 40%, this distance increases to 50'. Likewise, for slopes greater than 40%, the distance increase to 70'⁴. While the creation of defensible space is an appropriate measure for houses in these fuel model and topography classes, as argued by the applicant, the creation of this amount of defensible space on a particular lot may well drive the disturbance of that lot such to exceed the maximum of 5% allowed in the Rural-190 zoning district, thus expressing the dichotomy that sometimes exists between the preservation of the natural environment and fire prevention.
103. The publication entitled Planning for Wildfires, sums up the access issue:

*"One critical factor related to slope nonetheless introduces an issue for subdivision planning in all wildland communities: access. In order to effectively evacuate residents and to provide rapid access for firefighters, multiple routes into and out of the subdivision are necessary. On flat land, such access may be relatively easy to provide. In rugged terrain, however, it can become so problematic as to raise questions about the fundamental wisdom of a development proposal if such access cannot be provided..."*⁵

*** Changes to recommended stipulations:** [Note: this section has been added in its entirety.]

104. During the original Commission hearing, the applicant proceeded to present alternative stipulation language for consideration. Generally, staff opposes this approach since it often does not give either the Commission or staff the change to weigh the consequences of alternative language. This discussion was cut short by virtue of the potential loss of venue; however, the applicant presented a similar document on September 11th and has asked for staff to consider the proposed changes.
105. These changes are discussed as follows, with staff's originally recommended language indicated first, the applicant's proposed language presented second, a discussion of the issue third, and a recommendation pertaining to that stipulation fourth. Staff reiterates an overall recommendation for denial of the subject request and that stipulations are only included for the Commission's benefit should they choose to act favorably on this request. The following discussion is intended to minimize the amount of discussion at the hearing.

⁴ Creating Wildfire-Defensible Zones, Colorado State University Cooperative Extension Service, Figure 6

⁵ Planning for Wildfires, Page 42, American Planning Association, Planning Advisory Service (PAS) Report Number 529/530

106. **Stipulation 'c':**

Staff's original language:

"Within thirty (30) days of approval, the applicant shall submit a revised Preliminary Plat such to correctly depict a minimum 300' lot width as required by the Maricopa County Zoning Ordinance."

Applicant's proposed language:

*"Within **sixty (60)** days of approval, the applicant shall submit a revised Preliminary Plat such to correctly depict a minimum 300' lot width as required by the Maricopa County Zoning Ordinance."*

Discussion:

The intent of this stipulation was not to grant a "grace period" for which the applicant to comply. It is staff's preference that the Preliminary Plat be revised prior to Commission approval, thus eliminating the need for this stipulation all together. Approval of the Preliminary Plat based upon subsequent revisions places staff in a position of potentially reviewing several iterations before actually settling on a configuration that is acceptable. Further, staff's experience when approving a substandard Preliminary Plat is that it creates a situation wherein the applicant may not be willing to comply, or wishes to focus on addressing the deficiency on the Final Plat, in effect not complying with the stipulation.

However, recognizing that considerable work needs to be accomplished before the Preliminary Plat is acceptable, should the Commission wish to move forward, staff does not object to a 60 day time frame, but suggests that the stipulation be further modified to state that no Final Plats will be submitted or processed prior to the Preliminary Plat being revised. Staff also advises the applicant that the Preliminary Plat is only valid for one (1) year from the date of Commission approval and that upon the end of the 60 day window, approx. 10 months would remain in which to obtain a Final Plat and related infrastructure permit. Having stated this, the applicant would have the right to file for a Preliminary Plat Extension, which the Commission could approve or deny at their discretion, albeit against staff's recommendation.

Recommendation:

Staff recommends the following language for stipulation 'c':

*"Within **sixty (60)** days of approval, and prior to Final Plat submittal, the applicant shall submit a revised Preliminary Plat such to correctly depict a minimum 300' lot width as required by the Maricopa County Zoning Ordinance."*

107. **Stipulation 'g':**

Staff's original language:

"The Final Plat shall be configured such to provide each lot with the minimum lot width of 300' as required by the Maricopa County Zoning Ordinance."

Applicant's proposed language:

No proposed changes.

Discussion:

The applicant initially proposed certain changes to this stipulation, which were later withdrawn, thus the applicant has no objections to this stipulation as written. Having stated this, by virtue of stipulation 'a', which requires the Final Plat to be in conformance with the Preliminary Plat, stipulation 'g' becomes redundant. Staff has no objection to this stipulation being removed.

Recommendation:

Strike stipulation 'g'.

108. **Stipulation 'i':**

Staff's original language:

"Fleming Springs Road shall be improved such to provide for a 24' wide paving cross-section within a 24' wide private street tract. The "Roadway and Slope Easement" shall be shown on the Final Plat as a "Slope Easement". Setbacks shall be measured from the line of the private street tract. Lot widths shall be tied to the front setback."

Applicant's proposed language:

*"Fleming Springs Road **within the project boundaries and east of the project site** shall be improved such to provide for a **minimum 20'** wide paving cross-section **with vehicle pull-out areas** within a 24' wide private street tract. The "Roadway and Slope Easement" shall be shown on the Final Plat as a "Slope Easement". Setbacks shall be measured from the line of the private street tract. Lot widths shall be tied to the front setback."*

Discussion:

Staff does not object to the applicant's proposed changes; however, staff notes that the original stipulation contained language pertaining to a "slope easement", which later proved to be erroneous.

Recommendation:

Staff recommends the following language for stipulation 'i':

*"Fleming Springs Road **within the project boundaries and east of the project site** shall be improved such to provide for a **minimum 20'** wide paving cross-section **with vehicle pull-out areas** within a 24' wide private street tract. The "Roadway and Slope Easement" shall be shown on the Final Plat as a "**Roadway and Slope Easement**". Setbacks shall be measured from the line of the private street tract. Lot widths shall be tied to the front setback."*

109. **Stipulation 'm)1':**

Staff's original language:

"The applicant shall provide secondary paved access for this subdivision and for long cul-de-sacs."

Applicant's proposed language:

The applicant proposes this stipulation be stricken.

Discussion:

This stipulation speaks to the heart of staff's recommendation for denial of the subject request. To delete this stipulation would allow the project to move forward in the absence of secondary emergency access, which staff does not support.

Recommendation:

Staff recommends no changes to this stipulation.

110. **Stipulation 'm)2':**

Staff's original language:

"The interior street pavement width shall be 24 feet."

Applicant's proposed language:

The applicant proposes the deletion of this stipulation as it is addressed in stipulation 'i'.

Discussion:

While staff agrees this stipulation is addressed in stipulation 'i', simply deleting this stipulation would not be staff's preference. Rather, the stipulation should be modified to reflect the agreement reached during the August 10, 2006 meeting.

Recommendation:

Staff recommends this stipulation be modified as follows:

"The interior street pavement width shall be 20 feet, exclusive of curb and gutter."

111. **Stipulation 'm)8':**

Staff's original language:

"Prior to Final Plat approval, the applicant shall provide written confirmation from fire & emergency services on road design and only one access roadway."

Applicant's proposed language:

The applicant proposes the deletion of this stipulation.

Discussion:

On the surface it would seem that the original stipulation is moot by virtue of the email from RMFD dated July 26, 2006 (see attached). However, there may be other aspects of the roadway design that are not readily apparent at this stage of design that might affect the fire department's ability to access the site. Leaving this stipulation in place would cause the applicant to seek review and comment from RMFD prior to Final Plat approval, and to provide evidence of that review.

Recommendation:

Staff recommends this stipulation remain as is.

112. **Stipulation 'n)2':**

Staff's original language:

"Prior to Final Plat approval, and prior to any soils testing for conventional septic systems, a Soil Test Plan (Plan) shall be submitted to MCESD for review and approval. The Plan shall be submitted under application and fee (\$300 for each 50 lots or portion thereof). The Plan shall include the locations on the plat where soils testing (percolation tests and soil borings) will be performed, the method of testing, person/firm conducting the tests, depth to seasonal high groundwater level, site specific geology and topography, and the information that will be provided in the final soils testing report (e.g. field notes, soil boring logs, etc.). The percolation test methodology shall be specified and shall comply with the requirements specified in the Arizona Administrative Code R18-9-A310. E or F, depending on the proposed method of effluent disposal. No mere reference to the standard is acceptable; the field procedures shall be specifically described. The number of soil tests shall be at least 30% of the total number of platted lots and the locations evenly spaced so that the MCESD can determine that septic systems can "reasonably be expected to function properly on every lot" (refer to A.A.C. R18-5-408). All soil borings shall be to a minimum 50 foot depth, regardless of the type of onsite wastewater system that will be used. If disposal pits deeper than 40 feet are proposed, then the soil borings shall extend at least 10-feet beyond the projected depth of the pits. The approved plan shall state that at least five (5) working days notice shall be provided to Mr. Wesley A. Shoner, Senior Civil Engineer, prior to the start of field activities, unless other satisfactory arrangements are made."

Applicant's proposed language:

"A wastewater treatment plant will be provided to service the Gold Mountain Subdivision. If individual on-site disposal systems become necessary at any point in the future, a Soils Test Plan will be submitted, reviewed and approved by MCESD and completed per MCESD requirements. ~~Prior to Final Plat approval, and prior to any soils testing for conventional septic systems, a Soil Test Plan (Plan) shall be submitted to MCESD for review and approval. The Plan shall be submitted under application and fee (\$300 for each 50 lots or portion thereof). The Plan shall include the locations on the plat where soils testing (percolation tests and soil borings) will be performed, the method of testing, person/firm conducting the tests, depth to seasonal high groundwater level, site specific geology and topography, and the~~

~~information that will be provided in the final soils testing report (e.g. field notes, soil boring logs, etc.). The percolation test methodology shall be specified and shall comply with the requirements specified in the Arizona Administrative Code R18-9-A310. E or F, depending on the proposed method of effluent disposal. No mere reference to the standard is acceptable; the field procedures shall be specifically described. The number of soil tests shall be at least 30% of the total number of platted lots and the locations evenly spaced so that the MCESD can determine that septic systems can "reasonably be expected to function properly on every lot" (refer to A.A.C. R18-5-408). All soil borings shall be to a minimum 50-foot depth, regardless of the type of onsite wastewater system that will be used. If disposal pits deeper than 40 feet are proposed, then the soil borings shall extend at least 10 feet beyond the projected depth of the pits. The approved plan shall state that at least five (5) working days notice shall be provided to Mr. Wesley A. Shoner, Senior Civil Engineer, prior to the start of field activities, unless other satisfactory arrangements are made."~~

Discussion:

The on-going ambiguity in how sewer service to the subdivision will be handled is a major concern for staff and would prevent staff from offering support for this project even if all of the other issues were resolved. As noted previously, a Preliminary Plat is essentially a viability study, which should identify and resolve major engineering concerns prior to Preliminary Plat approval. Further, if the site is to be served by a WWTP, the location of the WWTP site, and any associated lift stations, must be determined necessitating revisions to the Preliminary Plat for the purpose of creating tracts for this purpose. In addition, issues regarding the MAG 208 process should be identified and addressed prior to Preliminary Plat approval and the requisite SUP process should be considered.

Recommendation:

Staff cannot offer support for any changes to this stipulation and recommends the stipulation remain as is.

113. Stipulation 'p)3':

Staff's original language:

"The Preliminary Plat discussed in stipulation 'c' above shall indicate Ocotillo Wash and Cottonwood Creek as legally described and recorded as Drainage Tracts."

Applicant's proposed language:

"The Preliminary Plat discussed in stipulation 'c' above shall indicate Ocotillo Wash and Cottonwood Creek as legally described and recorded as Drainage Easements."

Discussion:

The issue of drainage easements versus tracts has been a general concern for various projects in recent history and is the subject of an upcoming amendment to the subdivision regulations. While the exact language of the Text Amendment has not been worked out, the premise behind the proposed Text Amendment is that said easements create a substantial hardship on the ultimate property owner for the benefit of the entire subdivision. An easement constitutes an encumbrance to the property, essentially causing the lot owner to enjoy diminished rights associated with that land while accepting increased responsibility for the easement.

The presence of the easement often seriously limits the amount of buildable area on which to erect a house, especially if the easement bisects building lots as is the case in the subject subdivision. In addition, MCESD requirements state that certain setbacks from the easement must be maintained between the easement and any on-site septic system, which further encumbers the lot. Coupled with the potential for further limitations to the buildable area created by the hillside disturbance contained within the Roadway and Slope Easement, the potential for an un-buildable lot is increased.

Further, it is not uncommon for an individual to erect a fence around their property, which requires a high level of engineering in order to accommodate the opening of sufficient size to accommodate peak flows and to accommodate a break-out panel in case the flows exceed the design rate of the opening. The responsibility for this design falls on the lot owner, which again places an un-due hardship on the ultimate owner rather than on the developer during subdivision design. In addition, should the fence be damaged by a run-off event, the issue of maintenance responsibility becomes an issue.

This condition is exacerbated when the fence bisects the rear yard, potentially compromising any pool barriers that may be present. Conversely, should a property owner wish to block the opening such to constrain pets, a condition is created wherein flooding may occur up stream. Another consideration is that on going maintenance becomes an issue in that it is often not clearly articulated as to who has this ultimate responsibility for maintaining the easement, although the applicant stated they would include strong language on the Final Plat that speaks to the maintenance issue.

Recommendation:

Staff recommends this stipulation remain as is.

114. **Stipulation 'p)6':**

Staff's original language:

"The builder/developer shall provide on-lot retention, for the 100-year 2 hour storm, for the disturbed portion of each lot. The remainder of the lot will not require retention."

Applicant's proposed language:

*"The builder/developer shall provide on-lot retention, **if necessary to insure that the post-development storm water runoff will not exceed the pre-development runoff**, for the disturbed portion of each lot **or as otherwise approved by Staff**. The remainder of the lot will not require retention."*

Discussion:

Staff has concerns over the proposed modifications in that it leaves too much to interpretation. Experience with similarly worded stipulations has shown that upon site design, the builder or contractor will attempt to argue the merits of the design, which cause Drainage Review to have to defend why the design does not work, regardless of whether or not the proposed design meets the Drainage Regulations.

Recommendation:

Staff recommends the stipulation remain as is.

115. **Stipulation 't':**

Staff's original language:

"All exposed cut banks shall be treated with a desert varnish. All new fill areas shall be contained within a retaining wall, said retaining wall to be constructed of split-face masonry block stained to match the adjacent land, natural stone, or natural stone veneer. No additional spill slopes are allowed."

Applicant's proposed language:

"All cut and fill slopes shall be stabilized and restored in accordance with the Maricopa County Zoning Ordinance Development Standards."

Discussion:

The original stipulation was intended to address concerns raised by the City of Scottsdale and the Town of Carefree regarding aesthetics. Staff notes that while the MCZO Hillside Regulations do require restoration and stabilization as suggested in the applicant's proposed language, in practice, is it rare that the scar left behind after a site is developed is effectively restored to a natural state. Further, during the site grading, the earth is essentially flipped upside down with any organic soil that was present at the surface being buried and the underlying mineral soil exposed. This exposed mineral soil is generally lacking nutrients and rarely responds well to re-vegetation. This results in an intrusive scar that is visible for miles. By requiring said fill banks to be retained behind aesthetically pleasing retaining walls will minimize the scarring effect and reduce the amount of hillside disturbance present on the lot. Staff notes that walls required by the original stipulation language only pertains to new fill areas, thus the existing disturbance would not be affected.

Recommendation:

Staff recommends this stipulation remain intact.

116. **Stipulation 'u':**

Staff's original language:

"With the exception of driveways, individual lot development, including all buildings, septic systems, and on-lot retention areas, shall be limited to the building envelope. All cut slopes located on the lot, including those associated with the road and driveway shall be treated with a desert varnish. All fill areas on the lot, including those associated with the road and driveway shall be completely retained within a retaining wall system, said retaining walls to be constructed of split-face masonry block stained to match the adjacent land, natural stone, or natural stone veneer. No new spill slopes are allowed."

Applicant language:

"With the exception of driveways, individual lot development, including all buildings, ~~septic systems~~, and on-lot retention areas, shall be limited to the building envelope. ~~All cut slopes located on the lot, including those associated with the road and driveway shall be treated with a desert varnish.~~ All fill areas on the lot, including those associated with the road and driveway shall be completely retained within a retaining wall system, said retaining walls to be constructed of split-face masonry block stained to match the adjacent land, natural stone, or natural stone veneer. No new spill slopes are allowed."

Discussion:

The applicant's proposed changes to this stipulation are actually two-fold. First, the applicant proposes to exclude the septic systems from the building envelopment requirement. Staff notes that the building envelope is defined by the building setbacks and that the subject property is zoned Rural-190, which requires 60' front and rear setbacks, and 30' side setbacks. Since the average lot area within this subdivision will be slightly over 7 acres, it would not seem to impose a great hardship on the lot owner if asked to keep the septic systems out of the setback areas as there is ample area in which to establish a septic system, at least for those lots that are not encumbered by the drainage easement or excessive hillside disturbance.

The second aspect of the applicant's proposed modification involves the same aesthetic issues as discussed in the previous paragraph although staff concedes that the wording of stipulation 'u' suggests that the existing fill slopes be contained within a retaining wall.

Recommendation:

Staff recommends this stipulation be revised as follows:

*"With the exception of driveways, individual lot development, including all buildings, septic systems, and on-lot retention areas, shall be limited to the building envelope. All cut slopes located on the lot, including those associated with the road and driveway shall be treated with a desert varnish. All **new** fill areas on the lot, including those associated with the road and driveway shall be completely retained within a retaining wall system, said retaining walls to be constructed of split-face masonry block stained to match the adjacent land, natural stone, or natural stone veneer. No new spill slopes are allowed."*

117. **Stipulation 'y':**

Staff's original language:

"Prior to Final Plat approval, the developer shall provide written evidence from the Arizona State Mine Inspector's Office that the existing mines have been abandoned in accordance with Title 12 of the Arizona Revised Statutes."

Applicant's proposed language:

The applicant proposes the deletion of this stipulation since Title 12 is not applicable.

Discussion:

This stipulation was the result of a typographical error. Stipulation 'w' speaks to the mine abandonment issue. Staff does not object to the deletion of stipulation 'y'.

Recommendation:

Delete stipulation 'y'.

Summary:

118. There are two schools of thought regarding this proposal. One thought is that some level of control is better than no control as would be the case if the proposed subdivision were to be denied and the property were to develop in a wild-cat lot-split fashion. The second school of thought says that to approve this proposal while it is not in conformance with the standards and regulations put in place by the Board of Supervisors, is to place the County in a position to sanction such a proposal, when in fact to do so may well place the public welfare and safety in jeopardy. Staff's opinion is that the Board of Supervisors approved a set of standards to which development proposals are to be evaluated and to approve a proposal that does not meet these standards defeats the purpose of these regulations.
119. Of these Board-approved documents are the Subdivision Regulations. Section 307 of the MCSR states, "The Board may reject a plat that is determined to be physically unsuitable because of flooding, bad drainage, lack of adequate sewage and waste disposal, steep slopes, rock formations and other features which may endanger health, life or property, aggravate erosion, increase the flood hazard, necessitate unreasonable expenditure of public funds or which is found to be not in the best interest of the public."
120. * The applicant asserts that if the Commission does not approve this request as is, with the modifications to the stipulations discussed above, they will withdraw the request and revert to a lot-split scenario, thus eliminating the possibility for improvements being extended into this area. This argument is based on the presumption that some improvements are better than no improvements and that the absence of these improvements constitutes a threat to the public welfare.
121. * Staff counters this argument in that if the site were to be developed in a lot-split fashion, the buyers would build in the area under the full understanding that services are limited and would take that lack of service into consideration when choosing to live in this area. Conversely, should the proposed subdivision be approved, and subsequent buyers choose to live in this subdivision, they would do so with a reasonable expectation that the project met the standards set forth by the local jurisdiction. Since the project will not meet that requirement, especially with respect to secondary emergency access, the end user's expectations would not be

met potentially placing the County in a position of liability should there be a scenario where people are trapped in the event of a wildfire or other emergency.

122. * While staff's position regarding this project is clear, staff recognizes the possibility that the proposal may be approved over staff's objection. Having stated this, if the Commission chooses to take that direction, staff respectfully asks that the case be continued indefinitely and compel the applicant to address the many technical deficiencies prior to the Commission approval. At a minimum, the applicant should address the following issues:

- Revise the exhibit entitled "Gold Mountain Lot Disturbance Calculations" such to quantify the amount of LNC disturbance and non-LND disturbance on a lot by lot basis
- File a formal request for Legal Non-Conforming status through Planning and Development, which would be accompanied by the revised version of the Lot Disturbance Calculation exhibit
- Determine definitively the method of waste water disposal and comply with MCESD requirements
- If a package WWTP is to be used, revise the Preliminary Plat such to create a tract for that purpose
- Revise the Preliminary Plat to respect minimum lot widths, with setbacks measured from the Roadway and Slope Easement.
- Revise the Preliminary Plat to indicate the agreed upon street cross section
- Place Cottonwood Creek and Ocotillo Wash within separate tracts to be owned and maintained by the HOA, showing erosion setbacks and flood plain boundaries
- Revise the lot layout such that each lot will have enough non-disturbed hillside area to allow the construction of the size house likely to be constructed in this subdivision given the demographic
- Revise the Preliminary Plat such to indicate the pipe size for existing water main at subdivision boundary
- Revised the Preliminary Plat such to indicate the radius for cul-de-sacs
- Revise the Preliminary Plat such to indicate the street names on all segments

- Revised the Preliminary Plat such to indicate the easement width for Fleming Springs Road at subdivision boundary

Recommendation:

123. Staff recommends **denial** of **S2005065** due to the following reasons:

- The proposed subdivision lacks a means of paved secondary emergency access
- The applicant has not demonstrated the project will meet the Hillside Roadway standards as set forth in the Maricopa County Zoning Ordinance
- The Maricopa County Departments of Environmental Services, Transportation, and Planning and Development are opposed to the request
- There are outstanding technical issues regarding Drainage Review
- The proposal does not meet the requirements of the City of Scottsdale
- The proposal does not meet the requirements of the Town of Carefree
- The proposal does not meet the requirements set forth in the Maricopa County Subdivision Regulations

124. * However, should the Commission choose to approve the Preliminary Plat at this time, staff offers the following stipulations (these stipulations differ from those included in the original staff report. Changes are indicated in legislative format):

- a. The Final Plat shall be generally consistent with the Preliminary Plat entitled "A Preliminary Plat of Gold Mountain" consisting of ten (10) full-size sheets, stamped by the Civil Engineer December 9, 2005, and stamped received January 19, 2006, except as modified by the following stipulations.
- b. The Final Plat shall be generally consistent with the narrative report excerpt entitled "Gold Mountain – Preliminary Subdivision Plat For Subdivision of Approximately 458-Acres under Existing Zoning Rural-190", consisting of eight (8) pages, stamped received January 19, 2006, except as modified by the following stipulations.
- c. Within ~~thirty (30)~~ **sixty (60)** days of approval, **and prior to Final Plat submittal**, the applicant shall submit a revised Preliminary Plat such to correctly depict a minimum 300' lot width as required by the Maricopa County Zoning Ordinance.
- d. Prior to Final Plat submittal, the applicant shall attend a pre-submittal meeting with Development Services staff in order to coordinate the permitting process for on-site and off-site improvements associated with this project.

- e. Concurrent with submittal of Final Plat, Improvement Plans shall be submitted to the Planning and Development Department.
- f. After Final Plat recordation and prior to any zoning clearance for building permits, the applicant shall obtain a final Grading and Drainage and Infrastructure permit from Maricopa County.
- ~~g. The Final Plat shall be configured such to provide each lot with the minimum lot width of 300' as required by the Maricopa County Zoning Ordinance.~~
- h. The developer shall make off-site improvements to Fleming Springs Road east of the site. Said improvement shall be consistent with the requirements set forth for that portion of Fleming Springs Road located on-site.
- i. Fleming Springs Road **within the project's boundary and east of the project site** shall be improved such to provide for a **24' minimum 20'** wide paving cross-section **with vehicle pull-out areas** within a 24' wide private street tract. The "Roadway and Slope Easement" shall be shown on the Final Plat as a "**Roadway and Slope Easement**". Setbacks shall be measured from the line of the private street tract. Lot widths shall be tied to the front setback.
- j. Prior to Final Plat approval, the developer shall submit complete roadway construction plans to the One Stop Shop. Said plans shall cover both the on-site and off-site road improvements and shall demonstrate that the proposed roadway meets the Hillside Roadway Standards as depicted by Article 1201.7 of the Maricopa County Zoning Ordinance (MCZO). Should the roadway improvement plans not meet the MCZO Hillside Roadway Standards, the applicant may apply for a variance(s) to said standards. Staff support and ultimate approval of said variance is not implied or guaranteed.
- k. The Final Plat shall provide for legal access to the adjoining properties along the existing dirt roads.
- l. The Final Plat shall include a Plat Note stating that all residential structures shall be equipped with fire sprinklers. Prior to the approval of any residential construction permits, the builder shall provide written evidence that the sprinkler system has been reviewed by Rural/Metro Fire Department and meets their standards. Prior to the final inspection of a residential building permit by the Maricopa County Planning and Development Department, the

builder shall obtain and pass a final inspection from Rural/Metro Fire Department.

m. Prior to Final Plat, the following Maricopa County Department of Transportation (MCDOT) stipulations shall be addressed:

- 1) The applicant shall provide secondary paved access for this subdivision and for long cul-de-sacs.
- 2) The interior street pavement width shall be ~~24~~ **20** feet, **exclusive of curb and gutter.**
- 3) The revised Preliminary Plat discussed in Stipulation 'c' above shall indicate the pipe size for existing water main at subdivision boundary.
- 4) The revised Preliminary Plat discussed in Stipulation 'c' above shall indicate the radius for cul-de-sacs.
- 5) The revised Preliminary Plat discussed in Stipulation 'c' above shall indicate the street names on all segments.
- 6) The revised Preliminary Plat discussed in Stipulation 'c' above shall indicate the easement width for Fleming Springs Road at subdivision boundary.
- 7) Prior to Final Plat approval, the applicant shall address continuous maintenance of Fleming Springs Road to the site.
- 8) Prior to Final Plat approval, the applicant shall provide written confirmation from fire & emergency services on road design and only one access roadway.

n. The following Maricopa County Environmental Services Department (MCESD) stipulations shall be met:

1. Site shall be served by a public water system to be maintained by a qualified water service provider.
2. Prior to Final Plat approval, and prior to any soils testing for conventional septic systems, a Soil Test Plan (Plan) shall be submitted to MCESD for review and approval. The Plan shall be submitted under application and fee (\$300 for each 50 lots or portion thereof). The Plan shall include the locations on the plat where soils testing (percolation tests and soil borings) will be performed, the method of testing, person/firm conducting the tests, depth to seasonal high groundwater level, site specific geology and topography, and the information that will be provided in the final soils testing report (e.g. field notes, soil boring logs, etc.). The percolation test methodology shall be specified and shall comply with the requirements specified in the Arizona Administrative Code R18-9-A310. E or F, depending on the

proposed method of effluent disposal. No mere reference to the standard is acceptable; the field procedures shall be specifically described. The number of soil tests shall be at least 30% of the total number of platted lots and the locations evenly spaced so that the MCESD can determine that septic systems can "reasonably be expected to function properly on every lot" (refer to A.A.C. R18-5-408). All soil borings shall be to a minimum 50 foot depth, regardless of the type of onsite wastewater system that will be used. If disposal pits deeper than 40 feet are proposed, then the soil borings shall extend at least 10-feet beyond the projected depth of the pits. The approved plan shall state that at least five (5) *working days* notice shall be provided to Mr. Wesley A. Shoner, Senior Civil Engineer, prior to the start of field activities, unless other satisfactory arrangements are made.

- o. Prior to the development of the site, the developer / builder shall obtain a Floodplain Use Permit from the Maricopa County Flood Control District.
- p. Prior to Final Plat approval, the following Drainage Review stipulations shall apply:
 - 1. The applicant shall provide geomorphology evidence or erosion setback evidence that all lots along Ocotillo Wash are buildable.
 - 2. The statement "Preliminary not for construction or recording" shall be removed from all pages of the Preliminary Plat discussed in stipulation 'c' above.
 - 3. The Preliminary Plat discussed in stipulation 'c' above shall indicate Ocotillo Wash and Cottonwood Creek as legally described and recorded as Drainage Tracts.
 - 4. The Preliminary Plat discussed in stipulation 'c' above shall indicate the erosion setback lines and floodplain boundaries on the plat.
 - 5. The Final Plat shall include Plat Notes stating that each lot will require individual Grading and Drainage plan to include an individual drainage report.
 - 6. The builder/developer shall provide on-lot retention, for the 100-year 2 hour storm, for the disturbed portion of each lot. The remainder of the lot will not require retention.
 - 7. The Final Plat shall depict the backwater effect caused by culvert inverts and classify the area as a drainage easement including the restrictions.
- q. One hundred fifty dollars (\$150) per house will be paid by the developer as each residential building permit is issued to a fund for the Cave Creek Regional Park for trails and facilities enhancement and maintenance. The county shall deposit and hold all receipts in the parks special revenue fund

for the specific purposes stated above. All interest earned on the fund shall remain an asset of the fund. The assets of this fund are not intended to replace existing county appropriations for similar purposes, but rather are intended as supplemental resources resulting from additional park usage by Gold Mountain residents. Maricopa County Parks and Recreation Department will provide each residential unit in the Gold Mountain subdivision with a one-year, seventy-five dollar (\$75) voucher toward the purchase of an annual pass for entrance into any desert mountain regional park administered by said department, except Lake Pleasant Regional Park.

- r. Prior to Final Plat approval or issuance of a grading permit, developer(s) and/or builder(s) shall establish emergency fire protection services, covering all real property contained within the project area during course of construction and shall obtain a 'will serve' letter substantiating coverage from the appropriate Fire Department servicing the site. This information shall be included in the narrative report for the Final Plat and the associated public report for the subdivision. The Final Plat shall contain a note referencing the will serve letter.
- s. Development and use of the site shall comply with requirements for fire hydrant placement and other fire protection measures as deemed necessary by the applicable fire department. Prior to Final Plat approval, the applicant shall seek review and comment from the applicable fire protection agency, and shall provide written confirmation that the site will be developed in accordance with their requirements.
- t. All exposed cut banks shall be treated with a desert varnish. All new fill areas shall be contained within a retaining wall, said retaining wall to be constructed of split-face masonry block stained to match the adjacent land, natural stone, or natural stone veneer. No additional spill slopes are allowed.
- u. With the exception of driveways, individual lot development, including all buildings, septic systems, and on-lot retention areas, shall be limited to the building envelope. All cut slopes located on the lot, including those associated with the road and driveway shall be treated with a desert varnish. All **new** fill areas on the lot, including those associated with the road and driveway shall be completely retained within a retaining wall system, said retaining walls to be constructed of split-face masonry block stained to match the adjacent land, natural stone, or natural stone veneer. No new spill slopes are allowed.
- v. An archeological survey shall be submitted to and approved by the Arizona State Historic Preservation Office prior to issuance of a Grading

Permit or approval of a Final Plat. The applicant must contact the state office prior to initiating disturbance of the site. The applicant shall provide the Planning and Development Department with written proof of compliance with this stipulation.

- w. Prior to Final Plat, the developer shall provide written evidence from the Arizona State Mine Inspector's Office that the five (5) mines shown on the Preliminary Plat have been abandoned in accordance with Title 27 of the Arizona Revised Statutes.
- x. Prior to Final Plat approval, the developer shall demonstrate that the site will be served potable water by a water service provider carrying the Certificate of Convenience and Necessity for the subject site. Said water system shall be capable of providing fire flows in accordance with Rural/Metro Fire Department standards.
- ~~y. Prior to Final Plat approval, the developer shall provide written evidence from the Arizona State Mine Inspector's Office that the existing mines have been abandoned in accordance with Title 12 of the Arizona Revised Statutes.~~
- z. The applicant shall comply with the standard assurance provisions as set forth in the Maricopa County Subdivision Regulations.
- aa. Preliminary plat approval shall expire one (1) year from the date of Commission approval. Any request for an extension of time shall be submitted prior to the expiration date in accordance with Article II, Section 202 of the Subdivision Regulation.
- bb. The applicant agrees and understands he shall not assert vested rights under this approval.
- cc. Thirty (30) feet of defensible space shall surround all habitable buildings. Defensible space shall be implemented using a "light-on-the-land" approach, serving to remove by hand only that vegetation necessary to create defensible space, without affecting the natural character or integrity of the underlying top soil. Areas of hard-scape, or other non-combustible construction may be included within that defensible space.

rhk

Attachments: Case map (1 page)

- Vicinity map (1 page)
- Preliminary plat (8.5" x 11" reduction, 10 pages)
- * Hillside disturbance exhibit (8.5" x 11" reduction, 1 page)
- Narrative report (8 pages)
- * Applicant's proposed stipulation language (3 pages)
- MCDOT comments (memo plus attachment, 2 pages)
- MCESD comments (memo, 4 pages)
- Drainage Review comments (memo, 1 page)
- FCD comments (memos, 1 page)
- MCDEM comments (memo, 2 pages)
- * Revised MCDEM comments (memo, 1 page)
- MCP&R comments (memo, 2 pages)
- RMFD comments (letter, 2 pages)
- * Revised RMFD letter (email, 2 pages)
- City of Scottsdale comments (letter, 2 pages)
- Town of Carefree comments (letter, 2 pages)
- SHPO comments (letter, 2 pages)
- ADWR comments (letter, 1 page)
- Photo exhibit (13 pages)
- * Excerpt from July 27, 2006 Commission meeting (5 pages)

Enclosures:

- Preliminary Plat (11" x 17" reduction, 8 sheets)
- * Hillside disturbance exhibit (11" x 17" reduction, 1 sheet)

[Note: A full-size copy of the Preliminary Plat and Hillside Disturbance exhibit are available upon request.]